This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

NYPL RESEARCH LIBRARIES
3 3433 07606409 0

The CASE and EXCEPTIONS

By Frederick Trevor Hill

[redacted]

[redacted]

Hill
NEC

The
CASE AND EXCEPTIONS

The
CASE AND EXCEPTIONS

STORIES OF COUNSEL AND CLIENTS

By Frederick Trevor Hill

NEW YORK
Frederick A. Stokes Company
Publishers

91 3 3 15
ASTOR
TILDEN

Copyright, 1900,
By Frederick A. Stokes Company.

To

M. W. H.

CONTENTS.

	PAGE
Outside the Record	1
In the Matter of Bateman	18
The Finding of Fact	45
A Conclusion of Law	59
The Burden of Proof	75
In His Own Behalf	101
His Honour	115
An Abstract Story	141
By Way of Counterclaim	162
In the Name of the People	184
The Latest Decision	201
The Distant Drum	209

THE CASE AND EXCEPTIONS.

OUTSIDE THE RECORD.

IN GENERAL SESSIONS
COURT ROOM, *June* 5, 1896.

DOROTHY DEAR:

It is over. Warren's fate is in the hands of the jury. I have done the little I could, but the strain has been almost too much for me.

Even now, my heart sinks at the thought that I may have left something undone or failed to see some trap of the District Attorney.

For more than two hours I have been sitting here fighting it all through again.

You have not known what this case means to me, and doubtless have often found me a dull companion and neglectful lover during the past months. But I will not cry "peccavi," my Lady, unless you pronounce me guilty after reading what I write. See how confident I am—not of myself but of you!

The Court Room is quiet now, for it is ten o'clock at night. Only a few reporters and officials have lingered, and these yawn over the protracted business. Think of it! This is merely a matter of business to them—the life of this man. I cannot blame them, yet the thought of such indifference to what is so terribly vital to me, crushes with its awful significance.

Godfrey Warren is only a name to you, or at most only the name of one of my clients. You have not known that he is my oldest and dearest friend. How hard it has been to keep this from you! But it was his wish that you should not know it—and, if I do not send this letter, you never will.

Warren and I have been friends from boyhood. We attended the same school where we "raised the devil in couples" after a manner bad to record but good to remember. So inseparable were we that our families planned to send us to different Universities, thinking, I suppose, that our continued intimacy would be at the expense of a broader knowledge of mankind. But their purpose, whatever it was, came to nothing, for we flatly rejected any college education upon such terms.

As a result we entered Yale together and left there four years later with our boyish affection welded in a friendship such as comes into the lives of but few men.

Warren showed, even as a lad, those characteristics which have since marked him as a man apart. He was quick at his studies and slow in his friendships. But his judgment of men, though slow, was sure. A more accurate reader of character never lived. But of late years, whenever I remarked on this, he would laugh and say the credit did not belong to him but rather to Fantine, who told him all he knew.

This brings me to another striking trait in the man—his devotion to animals and their worship of him. Dogs were his for his whistle, and horses once touched by his hand would whinny a welcome if he only neared the stable door. When he held a moment's silent conference with a cat, it behooved the owner to watch lest pussy followed the charmer, and the way birds looked at him was positively uncanny.

Good God! I am writing this as though he were dead, and my heart is beating louder than the great clock in this silent Court Room!

Warren is not a handsome man, honey. You must not picture any Prince Charming in his person. He has—he has red hair. There—one would think I was making a confession. How he would laugh at me! He always says I try to make him out an Adonis when he's about as ugly an animal as ever walked upright. This is nonsense, of course. He is not handsome, but his features are strong, and when he smiles, his eyes light up the whole face and he is splendid.

But it is the mind of the man that has always fascinated me. His ideas are so clean—his breadth of view so comprehensive—his intellect so keen and his purpose so high.

If I could only have told the jury about the man himself!—But all this is "outside the record." Do you understand, dear?

Never have I known a more sunny disposition or a more even temper in anyone. But he could get angry. Half a dozen times I have seen him lose control of himself, but, awful though his passion was, it always rose in some cause that made me think the better of him as a man.

Once I remember he overheard a foul-mouthed fellow repeating a filthy story in the

presence of a little child. In an instant his face utterly changed, and before I could prevent him he struck the man a fearful blow, and I shall never forget the torrent of invective he hurled at the offender. I had not believed him capable of such tongue-lashing. (Little did I then dream how this would be used against him.)

It was on that day I first noted that, as long as Warren's anger lasted, Fantine kept on growling. When I spoke of it he smiled and answered,

"Fantine recognized the cur, I fancy."

I have written that Warren was my oldest and dearest friend, but I have not claimed to be his.

I would not presume to usurp Fantine's place.

Fantine was a Gordon setter. When I first saw her she was little more than a fluffy ball in Warren's lap to which he was addressing some remarks as he sat upon the floor of our study.

I did not disturb the conference.

"Puppy," he was saying, "your name is Fantine. Do you understand, Fantine?"

For a moment the puppy gazed solemnly

into his face, tilted its head slightly first on one side and then on the other, cocking it more and more in a puzzled effort at comprehension. Then it panted a puppy smile—licked Godfrey's hand and wagged its little feather of a tail.

"Ah, you understand, do you?" Warren went on. "Well, you and I will understand one another thoroughly after a while. I can teach you a little—not much, but still something worth knowing. For instance—not to bite my watch chain with those tiny milk teeth of yours! And you'll teach me—O, lots of things I want to know.—You'll show me the men I ought to trust and the ones to keep an eye on. Won't you, Fantine?"

The puppy put a fat paw on Warren's breast and wagged its whole body with its tail.

"And, Fantine, you'll never forget me as some people do, or think me ugly because I've got red hair? You have red hair yourself, you minx!—See those tiny flecks through your black coat? Tan, you say? Well, you'll have beauty enough for both of us some day. I'll teach you how to hunt too—Is that a yawn? I make you tired, do I, Mademoiselle? Well, I dare say you do know

more about hunting than I ever shall. I apologise. But we'll be great friends anyway—inseparables—worse than your master and this great oaf who's stolen in upon our confidential chat,—eh, Fantine?"

The puppy gave a sleepy sigh, nestling under Godfrey's coat and, as he stooped to peer at her, lifted a baby head and licked his face.

From that hour I was to a certain extent supplanted. But Fantine approved of me which was all I could hope. Of extraordinary intelligence she seemed to interpret every mood of her master and sometimes almost to anticipate his orders. The man and the dog were indeed inseparables. If he left a room where she was sleeping it was as though the very air she breathed had been exhausted, and she would wake with a start and follow him instantly. The first time Warren sent her to his country place, some fifty miles from town, he forwarded her in a crate by express, and, the morning after she arrived he returned to town, leaving her with the gardener. Before nightfall she was at his office door whining for admittance. How she had found her way back no one ever knew.

It was more than instinct. The animal seemed to feel the man as the Martian felt the north. No mere instinct could make a dog growl in sympathetic response to a man's moods, and yet Fantine, as I have said, would do this very thing. Yes, and sometimes the hair on her back would rise in silent warning against some stranger—a warning Warren never disregarded. This devotion was no one-sided affair, for Godfrey was a man—

—There! I am lapsing into the past tense again. God grant there is no evil omen in my pen!—

—It all happened so suddenly. I have not yet lived down the shock of it, and am nervous as any woman. Just now there was a noise in the rear of the room and I leaped to my feet barely repressing a cry. I thought the Jury were entering. But they are still talking.—About what I dare not think.

It is foolish, I suppose, to let my mind dwell on this "case," but I cannot get away from it and it calms me to "talk" with you in this way and to feel your quiet sympathy. I could not sit idle in this gloomy room—fearful to me now, and full of shadows. I should go mad.—I am a cheerful counsellor—am I not?

It was in the early evening of May tenth, a year ago, that Warren passed through Washington Square with Fantine at his heels. As they crossed the plaza on the north, a two-horse hack suddenly wheeled through the Arch on the wrong side of the road, narrowly missing the man and dog. Enraged at having to check his team, the driver, a burly Irishman named Dineen, snatched up his whip and, cursing fiercely, struck the dog with all his might. The lash wound itself about her head and flicked out one of Fantine's eyes. With a howl she ran a few rods down the Square and then crouched in the roadway, rubbing her bloody eye between her paws.

In an instant Warren was at the horses' heads and the hack stopped.

"Let go them horses—Let them go, I tell you! Ye won't, ye scum?—Then take that and that!"

The lash fell twice on the horses' backs and Warren was thrown to the ground, but still kept his grip upon the reins. Then the whip cut him in the face, his hold loosened, and the team plunged forward, the driver guiding straight for the spot where Fantine lay. An

instant more and the iron hoofs had trampled her down and the wheels of the carriage had crushed out her life.

Dineen shook the reins over the flying horses and shouted as he turned on his seat,

"Now pick up yur dirty cur—you loafin' scut you!"

But his victim leaping and bounding alongside the thundering carriage made no answer, and the laugh the fellow started was never finished, for two strong hands gripped his throat as Warren swung up beside him. Literally torn from his seat by the shock, the reins flew from the driver's hands and the frightened team became a runaway. For a moment the two men, locked in deadly grapple, were struggling on the box. In another instant they were over the dashboard swaying to right and left above the wheels, until at last they crashed back upon the roof of the carriage rolling horribly to the fearful lurching of the wheels. One moment Warren was on top—another moment he was under. Then suddenly the wheels of the hack struck a curb and the dark mass was hurled from the roof to the ground with a sickening thud. There was a short struggle in the

street and then Warren raised the driver's head and dashed it fiercely against the stones.

Half an hour later he staggered into my rooms—the blood trickling down his face and Fantine's crushed and bleeding body in his arms.

He would hear of no other counsel. In vain I begged him to retain some criminal practitioner.

"Why should I?" he replied. "You know the facts and believe in me. That is all I want. Only remember this. I would rather die than be imprisoned, and no trick or technicality shall ever clear me."

What weary months of waiting we have gone through! The Grand Jury indicted for murder, the case has been much talked about and the District Attorney has been very—zealous.

How my spirits rose when I found so many animal lovers among the men summoned as jurors, and how the District Attorney and I fought for and against them the whole of one long day! But he couldn't get rid of them all, lass. Every man who admitted that he had no feeling for animals possessed some

other trait which made even the District Attorney fear him.

There were dozens of witnesses but little controversy of fact. Without difficulty I proved that Dineen was a drunken sot of evil reputation, who had been drinking heavily on the day of his death, and then I placed Warren on the stand.

How splendid he looked as he faced the jury and told his story to their eyes.

The District Attorney was powerless before such a witness and he knew it. His only chance lay in the fearless candour of the man and, God forgive him, he took it. He asked only one question.

"Warren, do you feel any regret for the death of Dineen?"

I sprang to my feet with an objection, but Godfrey waved me back.

In breathless silence the Court awaited his answer. The District Attorney saw his advantage in the pause, and judging the man rightly, spoke with a show of fairness deliberately planned to his own purposes.

"You can decline to answer upon the ground that it will tend to incriminate you."

As he expected, Warren flushed angrily, and flashed a scornful glance at his questioner.

What a noble sensation it must give one to convict a man of murder by a trick!

"You do not decline to answer? Then tell us, Warren, do you feel any regret for the death of this man?"

"None whatsoever."

The answer was given slowly and distinctly with his face full to the jury.

Oh, how my heart sank as I heard his words! I felt it was useless, but I tried to soften them by explanation.

"Mr. Warren, tell the jury why you have no regret for the man's death."

"Because I saw him do foul murder which no law would reach. Because I looked in the creature's face and saw in it something far lower than the lowest brute, and I killed him in the same spirit as I would kill any dangerous beast."

I suppose I should have foreseen the awful hush which followed and prevented it with a flood of questions no matter how futile or meaningless. But at that moment, and in this place reeking with the breath of falsehood, his answer rang forth so true and brave that

I closed the case without another word and began my summing up to the jury.

Dearest, I cannot now remember a single phrase I uttered. Twelve men sat before me, but I could only see one face, and to that face I spoke. Again and again the District Attorney interrupted, claiming that what I said was outside the record, but I paid no heed. Behind me the crowd was restless, and, once or twice, I think, the Justice rapped for order with his gavel on the desk, but I never paused. This man's life was dearer to me than life itself, yet, in that moment of supreme effort, I failed.

Yes, I know it now, I utterly failed. But I did not realise it, dearest, even when I heard the pitiful feebleness of my argument exposed in the cool and cutting words of the District Attorney. Why could I not have seen the fatal weakness of my plea before it mocked me through the maddening calmness of the Judge's charge, to echo all these weary hours from every nook and corner of this dreadful room!

Why did I not insist that he have some able counsel! To think that I—his closest friend, did not do for him what some hired

advocate could have done! His blood is on my hands—the hands he grasped as the jurors filed from the Court Room—and I did not hide my head in shame.

How gloomy this place is. I shudder at its every shadow, and the very air is poison. They're lighting more gas jets now. That's better. I could not have stood it much longer.

I can at least be quiet in my humiliation. They shall not startle me again, and I will write on calmly.

Are you ashamed of me? You must be. You believed in me—thought me a man of some power—not a weakling who failed his friend. And you are right. I will never——

They are lighting the Judge's desk. I must look up—

Dorothy—Dorothy! The Jury is coming in!—

* * * * *

To

Miss Dorothy Bentham,

Forest Lodge,

Adirondacks, N. Y.

My Dear Miss Bentham:

There is no justification for these lines save the request of the man you love, but in that

you will find a reason if not excuse for me—will you not? This, he says, is to be a post-script to some letter telling you of the dark days we have passed and which, if it please God, shall not have been lived through in vain.

I have no right at this time to say what has been in my heart for you ever since my friend told me of his happiness. It is more fitting now that I write you what I am sure he has not, and what he seems to realise so little—his personal triumph in this day's work.

Twice, dear Miss Dorothy, the audience broke into uncontrollable applause during his wonderful address, and when the jury brought in their verdict those who heard it set up a mighty cheer for him which shook the very building. He bids me write that the jury found for acquittal on the first ballot, and were delayed two hours by a slight illness of one of their number. It was this period of anxious waiting, I fear, which told upon him so sadly. Let me hasten to reassure you, however, as to his health. He is now resting at my rooms, and to-morrow I hope to send him to the only physician whose presence he needs, and who,

I hope, will make him take a long summer vacation.

That God may bless and keep you both is the earnest prayer of

GODFREY WARREN.

June 6, 1896.

IN THE MATTER OF BATEMAN.

I HAVE hesitated to tell this story because it involves confidential relations between lawyer and client which are, of course, absolutely sacred to all who love and honour their profession as I do—and there are many such, thank God.

But I'm—well, I'm old enough to be sensitive about my age, and not old enough to be proud of it. Almost all my companions are dead—Bateman and his enemies have passed away, and I think there ought to be a Statute of Limitations for the relief of old lawyers who must live on memories. Then, too, if a man has had the lessons which a matter like this teaches, I think his experiences belong to his profession.

But when I think of it again, there is little in what I have to tell that will serve either as instruction or warning, because there never was, and never will be, another case like Bateman's.

I am satisfied, however, that there is no im-

propriety in disclosing the facts after all these years, and of this I trust my professional record is sufficient guaranty.

At the time of which I write I was junior partner in the firm of Paulding & Wainwright, and our offices were on Front Street, in the heart of the shipping business.

Josiah Bateman had been a client of Mr. Paulding long before I was admitted to a partnership. His Will had been in our safe for fifteen years, but neither my partner nor I knew its terms, for the old man had drawn it up himself. "He guessed he knew enough law to give away his property," he told us as we witnessed the instrument.

Mr. Bateman ought to have known some law. Certainly he had expended enough money in litigation to pay for a hundred legal educations. Indeed his genius for disputes would have made him an ideal client save for one fact—he seldom took the advice of his lawyers. It naturally followed that his success in the Courts was by no means encouraging. Whenever he won a suit he claimed all the credit, and if he lost, our responsibility was voiced by the loser in a tone only a little more offensive than his self-gratulation. People used to

wonder how we got on with the man, but we were accustomed to his vagaries, and despite his declamations he paid handsomely and promptly for every service rendered.

As he grew older Mr. Bateman's tendency to litigate increased tremendously and the Office Register coupled his name with every kind of law suit from a dispossess proceeding to a knotty problem in the law of nations.

Mr. Bateman had never married, and he never spoke of his relatives to anyone. Downtown New York knew him as a clear-headed, obstinate, hard-working, irascible merchant who had made a great deal of money. But there information stopped. His fortune was variously estimated from a million up to five millions—one guess being as good as another in the absence of any known facts.

So when the news came that Josiah Bateman was dead I think everybody connected with our firm, from the senior partner to the office boy, was curious to learn how the old man had left his money.

The news of his death did not reach us until a week after he had been buried. We were then advised by letter that he had been on a hunting trip in the Adirondacks and had

become ill and died when far away from any town. The guides seem to have known nothing about him and he was buried at the nearest cemetery. No papers or documents were found upon the body, and it was not until a week after his funeral that a crumpled piece of paper was discovered in his game bag. This proved to be one of our letters to him and we were at once put in possession of the facts. At the same time we were informed that the body had been exhumed and positively identified by an old friend of our client. Mr. Paulding was away from Town on his vacation when the news came and in his absence the responsibility for proper action devolved upon me.

The letter announcing Mr. Bateman's death arrived in the morning mail, but I was engaged in Court all day and it was nearly seven o'clock in the evening before I returned to the office. Letters and papers had accumulated on my desk during my absence, but I was too tired and hungry to attack the work they suggested, so dismissing the clerks for the night I sought out the nearest restaurant.

All thought of Bateman's affairs had been crowded out by the events of the day, and it

was not until I had finished my after-dinner cigar that they were recalled to me by seeing Mr. Bateman's obituary printed in an evening paper.

It was the usual "boneyard" article which had doubtless been set up in the newspaper office years before. Any way, after reading three quarters of a column I learned nothing about the man I did not already know, and what I knew could have been condensed into a dozen lines. It set me thinking, however, about our queer old client. Perhaps his Will contained some directions for the disposition of his body which should govern my immediate instructions to the people in the Adirondacks. His end would have been lonely enough anywhere, but up there in the silent mountains, away from the city's bustle and battle which he loved, death must have seemed fearful to that lonesome old man. Late as it was I determined to return to the office and look at Mr. Bateman's Will.

I always carried a key to the front door of our office building, for no one slept on the premises and sometimes it was important to gain admission after the closing hour.

The streets were absolutely deserted as I left

the restaurant and my footsteps echoed upon the flagstones.

Surely down-town New York is the most dismal spot in the world at night—a veritable city of the dead. The silent, empty streets have an atmosphere of utter gloom—the buildings dark and forbidding stand in gruesome solemnity or huddle together in hideous attitudes of fear—the deserted offices here and there show a shaded light in some rear room, but the ghastly glow only intensifies the darkness, and over all is the silence—the awful silence—of the night. It is not the restful quiet of sleep—it is not the peaceful stillness of death—it is the horrid, breathing, staring silence of the trance. It is the silence that makes you stop and listen—hush and whisper, or gently motion with your finger on your lips.

The feeling of all this was upon me as I turned toward my office. The unaccustomed stillness filled me with absurd apprehension, and tricked me into starting at every shadow. My footsteps echoed more and more rapidly upon the sidewalk, and louder and louder until I found myself actually running along deserted Front Street.

I had been in the offices at night before, but

I stumbled and tripped up the familiar stairway as though the steps and the very walls themselves had changed positions in the darkness.

I lit a lamp in our front room, but the big black shadows transformed the well-known surroundings so that nothing seemed the same.

The globe on the corner shelf took the shape of some great bird sitting gorged and sombre on its ample perch—the document cases with their white letterings suggested dark heads and shining rows of teeth, and the green baize doors studded with brass nails seemed like monster coffins set on end, each staring silently through an oval eye of glass.

I carried the lamp into my private room, but the draught from the hall blew it out, so I closed the door before lighting it again.

In those days my private room in the rear of our office suite was connected with the main rooms by a short hall, from which it was separated by a green baize and glass-panelled door. In this room was the firm safe, a cavern-like affair built into and occupying the entire rear wall. The interior was lined with sheet iron, and the huge doors of the same material were

opened and locked with a key weighing perhaps half a pound.

Sitting down at my desk I touched the secret spring of the drawer containing this key. I am not a nervous man, but I had been under more or less tension all day, and the stillness of the streets and the ugly suggestions of the dark shadows in the outer offices had had their effect upon my nerves, making me start as the spring snapped and the drawer shot out. Holding the lamp in my left hand close to the safe directly behind my chair, I fitted the huge key into the keyhole, and unfastened the lock. The bolts turned easily, and placing the lamp upon the desk again I pulled at the handle of the safe door. For a moment it resisted and then swung open with a sound like a sob, emitting a breath of cold air that chilled me and set the flame of the lamp flaring above the chimney. It was like the damp breath of some underground tomb. Moreover, it seemed to circle around me, blowing upon my neck and making the papers on my desk rustle and whisper. So strong was this impression that I swung about in my chair and stared into the blackness at the other end of the room, and even as I did so, one of the papers

before me was silently wafted off the desk. I watched it as it floated slowly and noiselessly towards the doorway, and when at last it settled gently on the floor, I felt the beads of perspiration trickling down my face. For fully a minute I must have sat peering into the darkness as though fascinated by the gigantic shadows on the walls.

Then I laughed nervously, mopped my forehead, turned again to the safe, and hastily took from the inner compartment a bundle of wills. Bateman's testament was the third in the bundle. It was sealed up in a plain envelope and the endorsement was in his own handwriting.

"*Will of Josiah Bateman. Dated June* 10, 1855."

The papers had that musty smell peculiar to old documents, and to which I was entirely accustomed, but that night the odor had a sickening effect upon me. It seemed to dry up the very air and make it suffocating with the horrible stench of decay. I stood up and stretched my neck to get an upper stratum of air, but the whole room seemed tainted with the foul cloying breath.

I sat down at the desk again and turned my

back upon the lamp so that the light would fall over my shoulder. With a shudder I picked up the envelope, which seemed to reek with the unendurable odor, and as I did so, noticed the window close beside me. Why had I not thought of that before? I dropped the paper and rose to open the sash.

The darkness outside and the light within had turned the window pane into a mirror reflecting the room behind me with perfect clearness. The whole effect was fearfully weird, and for an instant it held me spellbound. In the foreground was my own ghastly white face—the eyes apparently gazing not into mine, but at something behind me. In the background the lamp, the desk, the papers, and the brass-nailed green baize door, jet black in the night light, stood out clearly.

As I stared into this reflected room, I noted a peculiar dark spot on the oval glass panel of the door. Was it at this my mirrored eyes seemed to look?

I knew I was in no fit condition to withstand the tricks of imagination, so I turned, not without an effort, to ascertain what really caused this strange reflection. But my imagination would have served my over-wrought nerves

better than the fact, for the dark spot was unquestionably something pressed against the glass from outside the room. Steadily I gazed at this object, and endeavored with all the power I possessed to reason myself out of the nameless dread that had settled down upon me.

It could not be what it seemed.—Hair against the panel of that coffin-like door was too full of horrible suggestions! It must be a mop which had fallen against the glass.—Of course it must be that. A mop, too, would account for those damp breath stains on the glass.

Thus I reasoned, never taking my eyes off that oval pane in the door. But as I gazed my theory fell to pieces and my reasoning stopped. The moist spots on the glass began to expand and contract, vanish and reappear slowly and regularly as to some heavy breathing. Every exhalation seemed to blow that fearful odor of death toward my nostrils!

After a few moments however I could no longer deceive myself, for my eyes, accustomed to the light, made out too plainly for doubt a face pressed close against the glass watching my every movement.

With that discovery my reason and cool-

ness seemed to return instantly. Without taking my eyes off the face framed in the door panel, I slid open the drawer immediately beneath my hand, groped for, and at last grasped, the revolver I always kept there.

At last the face withdrew from the glass, but so sure was I that no illusion had deceived me that I waited without moving a muscle. At length the handle turned and the door was pulled open slowly. As slowly I turned the chamber of my revolver, touching each cartridge with my finger. The door continued to swing cautiously, and with my elbow still in the drawer I raised my forearm, covering the widening slit with the muzzle of my weapon.

The door opened outward into the hall, and at first I could see nothing of the person pulling it. Then suddenly a hand darted out and grasped the inside knob, and at the same moment the figure of a man, his back turned toward me, blocked the opening. Had I fired then I could not have missed my aim, but the opportunity was so complete it seemed murderous. The fellow paused in the doorway and seemed to listen or look for something in the hall or rooms beyond.

I tried to speak, but my throat only re-

sponded with a dry click. When at last I controlled my voice its utterance was a harsh whisper ;

" Stop where you are, or I'll fire ! Don't turn or move a muscle ! I have you covered with a revolver."

The figure in the doorway started convulsively, but made no other motion, and for a moment everything was so still I could hear my watch ticking. Then I heard the man say,

" Don't shoot, Mr. Wainwright. I'm going to face you."

My heart almost stopped beating as I recognised the voice, but the horror of the situation did not burst upon me until Josiah Bateman turned and stood before me under the glare of the flaring lamp.

For a moment neither of us spoke, but I noticed the haggard look of the man, the unkempt condition of his grey hair, and his soiled and tattered clothing.

There was no doubt that the living man stood before me, but everything about him breathed a horrid suggestiveness. At last I motioned to a seat and addressed him.

" What does this mean ? "

The old man smiled wearily, but his voice was much the same as usual.

"I'm afraid I've given you a scare, without intending it, Mr. Wainwright. I owe you an apology. But you were plucky, sir, and I—well, I took some risks too."

"What does all this mean?" I repeated, with some annoyance in my tone.

"It's hard to tell in a few words, Mr. Wainwright, but I haven't risen from the dead. Yes, I see you looking at my clothes, but I haven't been inside a grave, and no undertaker has handled me yet."

"Don't you think we've had enough of mysteries, Mr. Bateman?" I inquired impatiently.

"Surely—surely," replied the old man, "but I want to give you time to recover yourself and——

"I have quite recovered, thank you."

"Everything but your temper, Mr. Wainwright, everything but your temper. You need to have that in hand before giving me advice."

"You seek a strange hour for consultation, Mr. Bateman. Allow me to suggest an appointment for to-morrow morning."

"No time like the present, Mr. Wainwright.

I might say no time except the present. But while we are talking of time we waste it."

Mr. Bateman's manner was usually abrupt, almost brusque, and his present oily tone had a peculiar menace to my ears.

"I cannot listen very long to-night, Mr. Bateman, so I must ask you to explain your business at once," I answered shortly.

"Certainly my dear Sir,—though you can have no business more important than this.—Do you mind if I close the door? The draught is annoying and makes your miserable lamp sputter continually."

I felt I would rather not have that door closed again, but could give no reason, so I simply nodded.

Mr. Bateman rose and closed the door. He even slipped the bolt, but upon this I made no comment. Then he resumed his seat, ran his hands through his long hair once or twice, and fixing his eyes on my face began speaking rapidly in an entirely different tone.

"This is no time for details. You see I am alive, therefore the report of my death is false. It is no case of mistaken identity. I arranged it all. An unknown man did die in the Adirondacks. No, I did not kill him. It was a

natural death for him—an opportunity for me. I merely supplied the evidence for his identification. No need of asking how I did it. Enough that it's done and done with practically no confederates. The question now I suppose is—why?"

I nodded.

"I will tell you, Mr. Wainwright. It was the only way to avoid failure—the one chance to save me from utter financial ruin. You look at me as though I were crazy.—Well, I'm not. You think you know a good deal of my business affairs, but you know precious little and I tell you now, without discussing it, I had to die to make life worth living. If I had failed—well, there's no use talking 'ifs.' The point is this. I've been carrying a load that's pretty nearly done for me, but which'll give me the biggest harvest I've ever reaped. The devils think they've got me down, but I'll teach 'em who Josiah Bateman is!"

The old man's eyes glittered and he struck the desk with his fist, but his manner was no more extravagant than usual, so I only said, "We are still dealing in mysteries, Mr. Bateman."

"I'm explaining as fast as I can, Sir!

When I first entered upon the deal I'm now carrying through I thought I had plenty of money for it. But the unexpected happened again and again, and last month I began to turn things into cash. Since then I've needed more and more money, needed it so badly I dare not ask for it, needed it cruelly, horribly. I've borrowed in every place where it would not ruin me to negotiate a loan—I'm at the end of my rope and I must have more money by Tuesday next."

"By Tuesday next?" I queried.

"Yes. Do you know how much life insurance I carry and where?"

"A hundred thousand in the Equitable and a hundred thousand in the Mutual," I replied.

"Quite so—" he answered. "Well then—I've got to have that money."

I looked at the stern, haggard face before me. Anxiety and sleeplessness had wrought great havoc with the man.—What if it had touched his brain? He interpreted my thought instantly.

"Leave your revolver alone, Mr. Wainwright! I'm quite as sane as you are and a good bit smarter if you don't yet see my scheme."

"I think I prefer not to see it or hear it either," I answered.

"Nonsense, you've got to do both, and in the shortest possible time too, for I've had to waste a week already. I observe you were about to open my old Will. Well, it's no good. I've made another and here it is, signed, sealed, published, declared, witnessed and all the rest of the rot. This you will probate to-morrow morning. It appoints you my sole executor, gives you absolute power for five years to continue and conduct my business just as it is, leaves the bulk of my property to clerks and charities (for I haven't got as much as a second cousin living in the world), and it provides that my executor have one hundred thousand dollars in lieu of his fees."

"That is generous," I observed.

"I think it just," he replied, taking no notice of my smile. "Now listen," he continued. "By Tuesday morning you will be able to collect on my life insurance. The proofs are complete. Yes, and genuine too. The doctor, the undertaker, the guides, all honestly believe I'm the corpse, and it does resemble me wonderfully. Lord, but I've sweated in working it out! By Tuesday, I say, those

Insurance Companies will be satisfied, and they pay promptly, for the bigger the claim the better the advertisement. But if they delay, the fact of my death will tie up those devils who are trying to down me, for a few days at least. When you get the cash, pay it out under my directions and we'll roast the whole gang of them and Josiah Bateman will return to life ten times a millionaire, for I tell you, Wainwright, this is the biggest thing you've ever been in!"

"It is unique in more respects than one," I answered.

"It is simplicity itself. Only the details were difficult. Even getting here, disguised as I am, was not easy without attracting too much notice, and——"

"You might have saved yourself that trouble," I interrupted.

"No, I had to see you to-night. To-morrow you would have probated that old Will instead of——"

"Writing out our resignations."

"What do you mean?" he gasped.

"Am I not clear enough?"

"You don't mean to say you won't carry this thing through?"

"I hoped you would come to your senses, Mr. Bateman, before a declination was necessary," I observed, keeping my eyes steadily upon the twitching face of my client.

He stared at me for a moment in silence, and then burst out,

"Nonsense, Wainwright, nonsense! You don't understand! What's the matter with you, anyway? I have desperate need of money and cannot get it from any ordinary channel without ruin. I so arrange that I shall be thought dead. I have absolutely no relations. You collect my life insurance and pay the money where I direct, and I am saved financially. I can then return and the amount paid by the life Insurance Companies will be refunded, and who, in God's name, is hurt?"

"I have heard," I began, smiling, "that emergency evolves ethics, but——"

"O don't go sermonizing about ethics, and stop that silly smiling! Either I'm crazy, in which case you ought to humour me, or sane, and entitled to an intelligent hearing. I understand the proposition is a new one. It is made for new facts. But that does not argue it a crime. The only possible wrong in

it is involved in the probate affidavits, but you know in nine out of ten cases you don't comply with the statutes in making affidavits, so there's no perjury. I only ask you to tell a lie—a lie which cannot possibly hurt anybody, but which will save me."

"And incidentally help to perpetrate a fraud on the Insurance Companies."

"An innocent fraud!—We will return the money with interest the moment it goes through."

"And if it does not go through?"

"It will.—It cannot fail, I tell you! But if it does," Mr. Bateman looked me steadily in the eyes, "if it does fail, no harm will be done. I shall be dead. Before God, I swear it."

There was tragedy written on the man's earnest face, and a note of pathos sounded in his voice. For a moment neither of us spoke.

"Mr. Bateman," I said at last. "Because I have listened to you, you must not suppose I have for one instant countenanced your scheme. It is impossible from beginning to end. Suppose we terminate this interview——"

"I see it!" he exclaimed suddenly—"I see

it! You think the plan will fail and you take some risk for no gain in case my estate is bankrupt. I have said that if I do not get money I am ruined. I would not be, strictly speaking, a bankrupt. With my plans gone wrong my estate would still amount to $75,000. Your fee is safe. I have provided for that in the Will. Read it and see if I am not right. I cannot prove to-night the accuracy of my figures. To that extent you must trust me."

It was pathetic to hear this rough old man pleading in such a manner. I suddenly felt more sorry than indignant and answered him quite gently.

"I'm not practicing law, Mr. Bateman, merely for fees, or for only one case. I am following it as a career."

"What in hell's name has that got to do with it?" he burst forth angrily. "I'm sick and tired of your hypocrisy and that of your whole legal crew. You take cases you don't believe in, argue to prove what you know is false, defeat the laws, shield the dishonest, help criminals to escape, bully and insult honest men, tell lies, act lies, live lies,—do anything and everything that's safe and disgusting—and yet

you prate to me about your career! Your career indeed! God save me from the smirch and smirk of it all!"

"Have you quite finished, Mr. Bateman?"

The old man's face was purple with rage and his hands trembled as they clutched the arms of his chair. It was not until the look of hate faded from his eyes that he spoke again.

"No, Sir, I've not finished—but I apologise for what I said. It was childish—foolish. I was at the end of my patience for it seems so unjust that you should take such a stand. I ask you to save me from what would be ruin to me, for what should be a fortune to you. I ask you to do no wrong to any man, woman or child in the world. I have toiled years and years in my business. I have suffered to get what I have, and I made every dollar honestly, by my brains alone. I have only one ambition—have had only one thought for years—to die a rich man—the successful merchant of my time. A poor ambition you think? Well, it's my heart's desire. Take it away and I am dead. I have no wife, no children, no relatives of any sort. Examine my Will and see what I propose to do with my money.

What have I to live for save the joy of making? Oh, man, man, can't you understand? Don't you see what this means to me?"

I could not at once find an answer for the poor wretch, almost frantic with anxiety. He interpreted my silence hopefully, for he continued;

"I ask you to take but little upon faith. If my plan succeeds, as it must, no one will lose save those who in commercial venture have staked upon my failure, and who have no idea to-day how near I am to it. The Insurance Companies will regain their money and more advertisement than they could get elsewhere in twenty years. If I fail, they will only have paid the money a few days too soon. You believe that? You must know I could not survive failure. But you need not rely on this, for you are safe in the fact that I cannot return without facing a prison for my few remaining years. When first I came here to-night, Mr. Wainwright, it was to open your safe and substitute the Wills and let you do unknowingly what I now ask and implore you to do knowingly.—You will do it, will you not?"

"Mr. Bateman,—once and for all,—I will not."

"You won't help me? Then, by God, you shan't hinder me!"

I sprang to my feet, but before I understood what was taking place I saw a flash, and one of the window panes behind me shattered. Almost at the same instant I launched myself upon the old man with such force that we both crashed to the floor, I upon his prostrate body. The struggle was brief, for I was young and powerfully built, and the man beneath me well advanced in years. Pinning his arms with my knees I tore the revolver from his hand and hurled it across the room. Then he ceased struggling and I turned him over easily, tying his arms with my handkerchief. But there was little need of this precaution, for his strength was gone, and it was necessary to help him into a chair. Some moments passed before he said anything. When he spoke there were tears in his voice.

"Forgive me, Mr. Wainwright. I don't know what possessed me. The disappointment —the disappointment of a life's work must have suddenly crazed me. But I am sane now and I was before. Everything I told you is true.—I know it is impossible now to hope for anything.—Will you take me to a hospital? I

am a sick man, Mr. Wainwright—a very sick man, but I do not wish to live. Everything—I told you—is true."

Ten days later Josiah Bateman died at the hospital where I took him that night.

"It is a singular case," the House Physician told me, "but not unheard of. He simply lacked the zest for living."

Mr. Bateman's second Will was never probated. A few days before he died he sent for it.

"What is to-day?" he asked as I gave him the document.

"Wednesday," I answered.

"It is too late now," he whispered. "I have lived too long. I revoke this." He tore the paper as he spoke.

We proved the old Will, but he had perfected his plans only too well. It was difficult to make out a case of mistaken identity for the body in the Adirondacks, and it was months before we established our rights to the insurance moneys. His estate did not realise quite $100,000, but after a close examination into

his affairs I am persuaded all Josiah Bateman claimed he could accomplish was possible, and that everything he told me that night was absolutely true.

THE FINDING OF FACT.

"But their wild exultation was suddenly checked,
"As the Jailer informed them with tears,
"Such a verdict would not have the slightest effect,
"As the pig had been dead for some years."

LEWIS CARROLL.

"Anything on this morning, Counsellor?"

The title was still music to Holden's ears, so he smiled encouragingly at the fat reporter. In an instant a bethumbed court calendar was shoved under his nose and the reportorial pencil questioned;

"*Grafton against the Milling Companies?* Are you in that? Say, what's doing there to-day? Is it any good?"

The reportorial arm was slipped confidentially through his, and Holden thus accompanied threaded his way through the crowded rotunda of the County Court House.

"Hello—must be something up in Holden's office. Look at that leech Plimpton glued to him!"

"Yes—*Grafton against The Milling Companies.*"

"Good Lord! Is that on? I might as well go back to the office then. We'll never be reached to-day."

"That's right. We're not ready, so thank goodness they're ahead of us. It's a dandy case,— wish we had it."

"Think I'll stay and hear the arguments.—Old man Harter's in fine form, they say."

So the managing clerks talked as they leaned against the walls of the rotunda or sat upon the railing of the "Well."

It is an interesting place that rotunda—a trifle impossible, perhaps, from an academic point of view,—but still an interesting place.

It is the big noisy ante-chamber to the stuffy court rooms of a big noisy city. It has an atmosphere of tobacco, shirt sleeves and hurry —an atmosphere of the people—its architecture is big and plain—an architecture for the people, and its dirt and smears bespeak a daily use and occupation by the people.

To the casual visitor the same persons seem to live in it all the year round. To the habitué the masses are kaleidoscopic—never and yet ever the same. Messengers,—process-servers,

office boys—all the fledglings of the law gather there in groups and blow cigarette smoke into each other's faces. Court officials loll about the railing patronising the managing clerks, who must cultivate them or yield all claims to management. Big-girthed men hold one another by watch chains and lapels and tell loud-mouthed stories of their triumphant practice. Bloated gentlemen and shifty seek out corners to breathe moist secrets into each other's ears. But heedless of all these a hurrying crowd is ever streaming this way and that—here a haggard face and there a laughing one—now a brutal type and now a mask of breeding—so they go—shuffle, shuffle, click-a-clack, all day long, outside the halls of Justice.

Holden pushed open the swinging doors labelled

SPECIAL TERM

PART I.

and entered a small court room crowded to suffocation. Every seat was occupied and men were standing about everywhere—jammed in between the chairs—plastered against the wall

—crushed against the rail. The counsels' table and its two chairs were the only unoccupied bits of furniture in the room.

The Court criers glanced despairingly at the throng and shouted mechanically, "Gentlemen will please take seats!" and then, more hopefully, "Gentlemen will please stop talking!"

But the babel of conversation was finally hushed by an attendant who announced the entrance of the Judge by pounding with an ample fist upon the panels of a door. Not a very dignified heralding of the presence of the Court, but understood by the late comers whose view is limited to the judicial canopy—that pall-like canopy of red rep which sets one panting to gaze with relief at the steam-screened windows. They at least are wet.

"*Grafton* vs. *The Milling Companies!*"

Holden fought his way like a foot-ball player through the "rush line" of lawyers, and as he pitched into the cleared space before the counsels' table his impulse was to dodge the one man before him and race down "the side-line." But he checked himself in time. Then two other young men plunged into the open and stood somewhat breathlessly before the Bench.

"If it please the Court," began Holden, "this is a motion in a case of great importance and——"

"All cases are equally important in this Court, Sir!"

"I recognise that, your Honour, but I was about to say——"

"Well, well, never mind! Are you ready?"

"Yes, Sir, but I was about to tell your Honour——"

"That'll do, Sir!"

"That Mr. Harter, who is to argue this motion, thinks it will take till recess."

"Ah, Mr. Harter? Well, his opinions are interesting, of course, but not quite conclusive on this Court. Not necessarily conclusive. Eh?"

A titter from the crowd acknowledged this retort. Is there anything so irresistibly infectious as the wit of the Bench?

The other young men then came to the rescue of their fellow clerk. This is such an old, old play that every one knows his cue.

"Col. Partridge thinks he will need half an hour, your Honour."

"Col. Partridge? Ah,—well,—what does the other side say?"

"Mr. Coates thinks he will take twenty minutes more."

"Um—Mr. Coates? Tell—er—tell Mr. Harter I'll take it up as soon as the cases ahead of it are disposed of. No cases after *Grafton* vs. *The Milling Companies* will be heard before two o'clock. *Morton* vs. *Sheldon*, are you ready?"

"The defendant's Counsel has just stepped into the hall. If your Honour will hold it a moment——"

"This Court waits for no one, Sir. Its time belongs to the People. Motion dismissed. *Vone* vs. *Taunton*. What's that about?"

"It's a motion to change the place of trial, if the Court please."

"Well, hand in your papers."

"But I'd like to be heard, your Honour. This means much to my client."

"Now, Mister,—er—Mister—er—Counsellor, what is the use of arguing that? I know all about it—I have hundreds of such cases—and seldom grant them. Hand up your papers."

"Will not the Court allow me——"

"No, Sir; no, Sir! That'll do! Hand up your papers.—*Grafton* vs. *The Milling Com-*

panies! Ah, Mr. Harter; good-morning, Sir. Officer, get Mr. Harter a chair. Good-morning, Colonel Partridge, how are you to-day, Sir? We are all ready now, I think, Mr. Coates? Yes? Well, no other cases will be heard this morning."

And the Judge leans back in his comfortable swing-chair, and beams in courteous attention upon the distinguished counsel.

"If the Court please," begins Mr. Coates, "this is a case of great importance——"

Yes, his Honour knows its importance. He has gathered this from the retainer of Messrs. Harter and Partridge and Coates, and the reporters know its importance as they scribble on their pads, and the newspaper artists know it as they sketch illustrations for the "story," and the Court officials know it reflecting his Honour on the Bench. But the one who knows it best of all is the grey-haired plaintiff, Grafton, who sits behind Mr. Harter and listens with a puzzled air to the learned arguments.

To Grafton the case was indeed important. It involved all he had in the world. It had seemed a simple case to him when he first brought it to his attorney, but matters had

not gone smoothly from the start. Delay and postponement were followed by more delay and further postponement.

"The defendants were putting up a stiff fight," his attorney told him. What about? Well, they had "demurred," or "counter-claimed," or "made a motion," or "appealed," —had done some of these things, or all of them—goodness knows just what—it was not very clear.

Why couldn't his case be tried? Well, they were "stayed by appeal," or "enjoined pending a motion," or were "stricken off the calendar." Some of these things, or all of them, had happened. 'But the fact was,' his attorney told him, 'the defendant's Counsel stood in too well with the Court—he really ought to retain Mr. Harter.'

So Mr. Harter was retained, and the case bristled with nice legal points and pretty questions of practice, to the utter amazement of Grafton, who blindly stumbled along in the ruck of the legal battle, hopelessly confused and growing daily more and more anxious, like the suitor in *Jarndyce* vs. *Jarndyce*.

But such a case as *Jarndyce* vs. *Jarndyce* could never happen in New York, because, as

any lawyer can tell you, there is no Court of Chancery, or anything like——

Well, there is no Court of Chancery.

The argument of Mr. Coates was ably sustained, and Mr. Harter's reply was so masterly that Col. Partridge said in his rejoinder that nothing but his knowledge of the law kept him from being persuaded.

The Court laughed, and the officials laughed, and the listening Bar laughed. Everyone laughed except Grafton, who had no sense of humour, anyway.

But at last it was over.

"Well, Mr. Grafton, I hope you are satisfied—I feel sure his Honour was with us. . . . Holden, hand up your brief. . . . It was very good, Sir. . . . Mr. Grafton, this is young Mr. Holden of our office who wrote the brief for you on the motion to-day—and wrote it well, too."

Holden blushed like a school-girl as he shook Mr. Grafton's hand. It was no small thing to be praised by Mr. Harter at any time, but about "*Grafton* vs. *The Milling Companies*," it was positive distinction.

Mr. Harter was right about the Court being with him, for the plaintiff won that motion.

He was right again in the two appeals which followed the decision. He was right on several other like occasions and won no less than six different motions and five appeals by the end of the next three years.

But the case didn't get to trial.

It was then that Grafton began to grow surly and instead of congratulating Mr. Harter on his triumphant practice, snapped out that such practice made perfect fools of honest men.

Which was decidedly ungrateful as well as impolitic.

However, he sensibly gave up trying to follow the maze of procedure, and hammered away with expostulation and question at the fact that the case wasn't tried.

With less wisdom he took to talking about the litigation with his friends and neighbours—with lawyers at the Club—with officials in the Court—with clerks in the office—with anyone and everyone who would listen, until he bored them beyond politeness and began to get snubbed. But the case itself was less interesting than at first. Almost all the fine points of "practice" had been exhausted and only the dry fodder of facts remained.

Harter hadn't appeared in Court with it for

many a day and plainly intimated that he'd retire altogether if Grafton didn't stop boring him. But in Holden the plaintiff always had an interested listener. Ever since the morning when Mr. Harter had praised his work Holden had studied the case in every phase and knew its every detail. So when, a few months after he set up in practice for himself, Grafton brought him all the papers and made him his sole attorney, Holden knew no words with which to express his thanks.

He had always despised the flagging interest of his seniors. Doubtless they had done their best—Mr. Harter and the attorney, but despite their fruitless efforts he felt his ability to push the matter to a successful issue. It was a great case, and there was his chance, and into it he threw himself with all the splendid enthusiasm of his youth and strength. He pressed his adversaries this way and that, worried them with unending work and harassed them with ceaseless attack until he saw his case actually set down for trial on "a day certain." Then his excitement knew no bounds. He worked hour after hour with Grafton's witnesses, prepared schedules and accounts, compiled digests of testimony and indices of all the papers, made

himself an expert bookkeeper and a master-expert on every detail of Grafton's business. He raised every question that legal ingenuity could conjure up, and every quibble that cunning could devise and met them in his trial-brief—the work of months of careful study. There was no suggestion of a defence which was not ferreted out and run down by question and answer—no technicality neglected, until at length even Grafton laughingly protested.

"My dear boy, let's leave it alone now! There's no one can beat you on either the facts or the law."

But Holden wouldn't leave it alone. They were already talking about the approaching trial in the rotunda, and this was his start in life. So night and day he studied and planned with the increasing confidence which comes of perfect preparation.

At last they were in the Court crowded with witnesses, counsel, litigants and reporters.

Would there be another adjournment? Not if he could help it, and Holden squared his jaw and looked determination at the veteran Mr. Coates.

"*Grafton* vs. *The Milling Companies*—How long will that take?"

"About two days—your Honour, I think." Holden's voice fairly faltered as he answered glancing at the witnesses clustered near him and the immense pile of books and papers.

But Mr. Coates did not dissent. He was ready.

At last! At last they were at trial.

"Then no other matters will be heard to-day. *Grafton* vs. *The Milling Companies.* Proceed with your case, Sir."

But Mr. Coates had arisen and was addressing the Court.

"I think it only right to say to your Honour that I shall not interpose any defence in this action. The Milling Companies made an assignment last night, and I only represent the Assignee. The gentleman will, of course, take our default, but I should hardly think he would occupy the whole day."

Holden stared silently at the speaker. The familiar scene darkened, faded, disappeared and flared up in a new light completely transforming it—a strange room with strange people—a stage setting in the white unmasking light of day.—A mocking face leered at him from a raised dais—mocking figures elbowed him with impatient scorn—mocking fin-

gers pointed at him with derisive joy—fat clammy hands touched his breast and pushed him from the rail over which he glared with the most desperate hatred known to the world —the hatred of a man against mankind.

Then someone burst out laughing.

"What does he mean, Holden?"

Grafton's voice sounded a mile away, but the words of Belden, Coates' clerk, were clear enough as he whispered in Holden's ear :

"Wasn't it great? Kept you all off for over three years without a ghost of a defence! Our people only wanted time to get things fixed and we got it for them all right enough, I guess. Give you a dime for your judgment! I tell you——"

But Holden suddenly struck Belden across the mouth and was promptly adjudged guilty of contempt of Court.—Of which the payment of his fine did not purge him, an order of the Court to the contrary notwithstanding.

A CONCLUSION OF LAW.

THIS story will not be understood by half the people who read it and the other half will not believe it, so it should be perfectly innocuous.

Hartruff, it is true, took offence when Norris told it in his presence,—but trust Norris for picking out the hundredth man. He has about as much tact as Hartruff has conscience, so they are admirably adapted for mutual misunderstanding.

They encountered in the smoking-room of the Equity Club after lunch, where the usual number of lawyers were gathered to bore one another with dissertations on their respective cases. One can sometimes obtain useful information by listening to a good deal of tiresome boasting, but the real reward for enduring long blasts of someone's else horn is, of course, the privilege of blowing your own. Norris, however, cared nothing for performances of this kind, and the first professional

toot was, as a rule, the signal for his departure.

The man who doesn't boast is apt to be popular, but the man who won't listen to boasting is invariably disliked. Norris was not popular, and the loudest performers hinted that he hadn't any practice to talk about. What induced him to depart from his usual custom on this particular occasion I do not know, unless, as I have said, it was his fatal genius for picking out the hundredth man.

Groton had been discoursing for twenty minutes on his triumphant progress through a case with which all his hearers were supposed to be familiar—for Groton thinks a breathless world watches his career—when he happened to mention somebody as being of "no political importance."

"There isn't any such person," interrupted Norris.

Groton stopped and looked at the speaker in surprise.

"I didn't mean to interrupt you, Groton," continued Norris, "I've a bad habit of thinking aloud. Go on with what you were saying."

Groton resumed his recital, and when at

last his story reached the Court of Appeals and the final discomforture of all his opponents he turned indulgently to Norris.

"And now tell us, Norris, why you say there is no one politically unimportant."

"I was thinking of an experience Jack Holcomb had a few years ago——"

"Yes?"

"You remember Jack Holcomb—don't you? No? Well, he practised here for many years. He wasn't much of a lawyer, but he had the faculty of making his clients believe he was, which is quite as effective. Barney McCarren was introduced to him by some real-estate broker, and though any lawyer could have accomplished what Holcomb did for McCarren, yet such was his way of doing it that the man swore by him ever afterward.

"Barney McCarren was the proprietor of two or three little oyster-stands in the lower part of the City. As may be imagined he was not a person of any great wealth. He was of so little prominence in the down-town ward where he had lived all his life, that even his immediate neighbours only knew him as a quiet, self-supporting man, who devoted himself to his family and interfered with no one.

"Well, McCarren came to Holcomb one day some years ago and said that a judgment had been entered against him by the District Attorney's office on a forfeited bail bond. It appeared that one of his neighbours had been arrested for assault, and Barney, having a small piece of real estate, became bail for him. When the case was called for trial, however, the prisoner failed to appear, and consequently McCarren's small property was in peril. High and low he searched for his principal, but a month elapsed before Barney chanced upon the fellow. They saw one another at the same moment, and instantly a chase began, which lasted until the fugitive tripped on the Canal Street car tracks and McCarren fell on top of him and hauled him to the nearest police station. A little later the man was put on trial and acquitted, and at that stage of the proceedings Barney sought Holcomb's aid. The matter was, of course, a very simple one, and Holcomb assured his client he would have the property cleared of the judgment forthwith. To this end he prepared the proper papers, which, as you know, include a receipt from the Sheriff showing payment of all the fees of that official.

"Holcomb therefore looked up the matter in the Code and found the proper fee was fifty cents. Then he went to the Deputy in charge of the case and presented the certificate for signature, at the same time tendering the statutory amount. The man read through the papers and then pointed to the money Holcomb had placed on the table.

"'What's that for?' he asked insolently.

"'It's your fee,' explained Holcomb.

"'It ain't *my* fee.'

"'Well, what is your charge then?'

"'Fifty dollars, I guess—about fifty dollars.'

"'You are very much mistaken. Here is the section regulating the matter.'

"'Aw, what do I care about the statue?—The fee's fifty plunks I tell yer!'

"'And I tell you, my friend, I will not pay it!' answered Holcomb, growing angry at the man's insolent manner. 'I will pay you half a dollar and not one cent more.'

"'Then yer don't get the certif. See?'

"'I'll see that I get it at once and teach you a lesson at the same time!'

"Holcomb swung angrily out of the room and made straight for the Sheriff's private

office. He knew the Sheriff well, and handing his card to the door-keeper was immediately ushered into the room, where he reported the actions of the Deputy. The Sheriff was indignant and rang the bell sharply.

"'Send Mulqueen to me at once.'

"Mulqueen reported immediately and as soon as he had entered the room and closed the door the Sheriff turned on him angrily.

"'What does this mean, Mulqueen? Here is Mr. Holcomb, who says you demand $50 for a matter covered by a fifty-cent charge. You must be crazy, man! What do you mean by it?'

"'Fifty dollars is the fee—Sheriff,' answered the man sullenly.

"'It is not, Sir! I have looked at the Code, which Mr. Holcomb says he showed you. Make out the certificate instantly, and I'll take up your case later.'

"'Can I speak to you for a moment—Sheriff?' asked the Deputy.

"'Yes—go ahead,' snapped the official.

"Holcomb moved to the window to be out of hearing, and the man shuffling up to the desk whispered a few words in the Sheriff's ear. When the lawyer looked into the room again

the Deputy had disappeared and the Sheriff was gazing at the pattern of the rug under his desk.

"'I'm awfully sorry, Holcomb,' he began, without looking at his visitor, 'but I find—but the fact is,—the Deputy is quite right. The fee is—is fifty dollars.'

"Holcomb stared at the official in amazement.

"'The Deputy right!' he exclaimed after a pause. 'Why, what's the matter with you, Townly? Here's the law—you just quoted it yourself!'

"'I know, I know,' muttered the Sheriff, turning his head and gazing out of the window, 'but I was mistaken—I find I was mistaken.'

"'But I am not mistaken,' persisted Holcomb. 'You must be bewitched! I don't understand.'

"'Well, don't try to, old man. I'd do anything for you—you know, but I can't do this.'

"'I don't want you to do anything for me!' interrupted Holcomb, indignantly. 'I only want you to enforce the law as you find it, and not——'

"He paused, feeling that he might say too much.

"'You'll have to excuse me,' murmured the Sheriff, impatiently, 'I'd do anything to oblige, but really, this time——'

"Holcomb gazed at the man in silence for a moment—nodding his head in comprehending pity and contempt, and left the room without another word."

—"When did you say your friend dreamed all this rot?"

It was Hartruff who roughly interrupted the story.

At the sound of his voice Norris turned his gaze toward the window, and continued looking out of it while he answered slowly:

"Why do you think he dreamed it? Have you heard the rest of the story?"

"No—but anyone can see what's coming."

"Is it such an every-day affair with you? So much the less reason for thinking Holcomb dreamed it."

Hartruff laughed contemptuously.

"O, well, never mind—go on with your tarradiddle."

"You will pardon me then for telling what

must, of course, be commonplace to a member of the General Committee? "

"O, go to the devil!"

"You forget yourself, my dear Hartruff. Why direct me to headquarters, when his deputies are members of decent downtown clubs?"

"Come, come, gentlemen," interposed Lawton "this is going too far."

"Precisely what I just remarked to Hartruff," drawled Norris.

Hartruff saw the smile on the faces of the company, and rose from his seat.

"I will leave this gentleman to continue his pipe-dreaming, advising him, however, that it is a dangerous practice."

"Is that a warning, Hartruff? If so, write it out, please. Those warnings always look so much fiercer in mis-spelled words signed with crosses. But I forget, your Organisation never puts itself on paper."

"No—but it puts itself on record!"

"Makes its mark, you mean? Well, that's merely a defect of early education, easily overcome with men like you to guide its fist."

"Take care you don't feel the weight of it."

"My dear Hartruff, haven't they taught you yet to keep your teeth on your temper? Really, you'll never rise from the ranks unless you learn to smile and smile and,—well—you'd better learn to smile."

Hartruff turned on his heel, strode to the door and slammed it behind him.

"When Holcomb left the Sheriff," continued Norris calmly, "he promptly sent for his client Barney McCarren and explained the entire situation to him. McCarren expressed no surprise, but when Holcomb announced his intention of bringing mandamus proceedings to compel the Sheriff to give the required certificates, Barney laid a protesting hand on his counsel's arm.

"'Shure 'tis no use, Counsellor,' he said. 'I was afraid you couldn't do anything, but I knew if you couldn't, nobody could.'

"'What do you mean by its being "no use" —and why should you "be afraid"? I'm going to get out papers this instant and show those fellows up.'

"'Please don't do it, Sir. At least not until I come again.'

"'For goodness' sake, why not, man? It shan't cost you a cent.'

"'It isn't that, Sir. But—well—I shouldn't have troubled you—I might have known——'

"'Might have known what?'

"'That they'd lay for me.'

"'Why?'

"'For not attending meetings at the Club.'

"'What Club?'

"'The District Club.'

"Then it came out, bit by bit, that McCarren had been a 'regular' in the Organisation and a member of the District Club. During the last year, however, he had wearied of the proceedings and had absented himself from the meetings. At the last election he hadn't voted. The District Leader had spoken to him once jokingly about his absence from the meetings, and once, not jokingly, about his absence from the polls.—'I knew they had it up for me,' concluded McCarren resignedly.

"'Well, don't you let them frighten you, Barney. I'll soon show them they can't play with the law.'

"'You musn't do it, Sir. You really mustn't do it.'

"Holcomb argued and expostulated at length. He explained to his client that the Courts

would not permit such violations of the law, and that the legal proceedings would be free of cost. He showed him that prompt action would not only gain him his rights, but would make them respected in future. He urged his personal and professional interest in the matter and begged his client to take action. But all in vain. McCarren knew he'd win the lawsuit—but there were his oyster-stands for which licenses were necessary. He'd like to stand up for his rights—but he wanted his children to get into the schools next Fall. He knew how Mr. Holcomb felt about the matter—but it helped out for his wife to continue as janitress of the tenement where they lived.—In a word there were a hundred points where the Powers could and would reach him. He couldn't afford it!

"Holcomb looked hopelessly at his client, and seeing the disappointment in his face, McCarren tried to soften the effect of his decision.

"'Wait—just wait a few days, Sir. Then maybe I'll come and see you about it again.'

"At the end of a week he came.

"'Will you take up that matter again, Mr. Holcomb?' he said. "'Try it once more just

as though'—he hesitated a moment—'just as though I hadn't asked you before.'

"Holcomb 'took it up again' with the same papers he had prepared the first time, and called on the Sheriff's deputy.

"'I want a receipt for your fees in this case,' he said, laying the papers before the official and placing a fifty-cent piece on his desk.

"The man read the papers slowly, thoughtfully inserted the date and blotted the ink. Then he signed the Sheriff's name by his own and handed the papers to Holcomb.

"'There ain't no fees in this case,' he said, as he pushed the fifty-cent piece toward the lawyer.

"'I think you are mistaken. There is the statutory fee on 'entering execution.'

"'There weren't nothing done in this case.'

"'No?'

"'No.'

"'Thank you.'

"Holcomb entered the proper order and returned to his client.

"'How did you do it, Barney?' he asked.

"'How did I do it, Sir?'

"'Yes.'

"'I didn't do anything.'

"'But why was it matters went so smoothly to-day? You must have used some influence.'

"'No, Sir,—that is—well,—I think the Leader saw me at Tuesday's meeting, Sir."

Young Hudson was the first to break the silence which followed Norris' recital.

"I've always said," he began, "that some of the most annoying things in practice come from the obstinacy of clients. Now I had a case——"

"If a man wants to get blackmailed," interrupted Harlow, "there's no law in the land to prevent or protect him."

"I guess Holcomb put on too much 'side' with that deputy," commented Truslow. "Those fellows are easy enough to handle if you only go about it in the right way. Now I had occasion one time to need——"

"I don't believe any Sheriff would make such a break as to call down a deputy without inquiring about the inside facts," interrupted Patton. "You take my word for it, Norris, there's someting wrong with that story."

Norris looked straight at the speaker.

"You're right," he answered, "there is something wrong with that story."

"I knew there was. What?"

"The dates and the names. It happened yesterday and I was the lawyer. I told it to you men because you're Members of the Bar, interested in the administration of justice and the maintenance of law. I'm glad I did so, if only to learn we're so accustomed to such things nowadays that we see nothing in them but the obstinacy of clients and the need of jollying petty officials. Isn't it a pretty commentary that the only doubt cast upon the truth of this story is that the Sheriff should have failed to inform himself of the conspiracy? Such things are going on every day and we wink at them if we don't actually aid and abet them to facilitate our private business. A fearful tyranny sways this whole city, clutching or shadowing the tenements, brutalising the prisons, frustrating the laws —wasting the treasury—corrupting the courts —and we not only suffer it, but we tolerate the men of education who associate themselves with such work—allow them to be members of our clubs and degrade ourselves until——"

"Say—old man—hire a hall for next Tuesday evening and I'll take a ticket. Honest I will. But I've got to leave you now and get back to work."

Lawton rose and smiled good-naturedly at Norris, whose crimsoned face bespoke repentance of his sudden outburst.

The other members followed Lawton's example, and soon there was no one left in the room except Norris and "Silent" Bancroft.

For some moments neither man spoke. Then Bancroft rose and rolling his cigar between his fingers thoughtfully studied its glowing ashes.

"Say, Norris," he began slowly, "do you—do you attend primaries?"

"Er—no."

"Um,—I thought not," remarked the old gentleman as he walked toward the door.

THE BURDEN OF PROOF.

I.

It had been snowing ever since the Buffalo express left New York, but the Pullman car passengers, comfortably housed, were no more conscious of the weather than they were of each other. When the train stopped unexpectedly at a flag station, the whispering of the snowflakes against the window-panes made itself heard, and the presence of the passengers made itself felt. The car instantly became a room whose occupants discovered one another at the same moment, and sat staring into each other's faces with all the gloom of fellow-patients in a doctor's office. The silence was embarrassing and absurd. A nervous passenger coughed to relieve the tension, and felt himself flushing under the concentrated attention of the entire company. A woman leaned forward to speak to her neighbour, but stopped as though conscious of some indecorum. Then everyone sat perfectly quiet, and the

slow throb of the engine was the only sound from the frosty world outside.

At last the conductor opened the door, and the passengers gazed at him as if they had never seen his like before. When he stamped the snow off his feet they watched him with a charmed intensity. When he spoke they started perceptibly.

—" Anybody named Glenning in this car?"

—" Yes—here."

All eyes centred on the speaker, a middle-aged, well-dressed, commonplace man occupying a corner chair.

—" A telegram for you, Sir."

Mr. Glenning slowly adjusted his glasses, peered at the address on the yellow envelope, took a penknife from his pocket and cut the flap with great deliberation.

The passengers watched his face with the breathless interest of an audience viewing the climax of some mighty drama where every movement of the actors must be noted. But Mr. Glenning read the message without the slightest change of expression.

" If you want to send an answer you can do it. We wait here for a few minutes longer."

" I'll tell you in a moment."

Mr. Glenning took from his vest-pocket a small, red book with indexed margin, opened it about the middle, ran his finger down the edge, stopped toward the foot of the page and said:

"No answer. Any charge? No? Thank you."

The audience gave vent to its relief in a relaxing stir and rustle. Mr. Glenning picked up his newspaper and began to read. The engine whistled two sharp warnings, the wheels slipped once or twice on the icy rails, the whispering of the snowflakes hushed and the inmates of the flying Pullman once more forgot each other.

When the train reached Albany the last passenger to leave the car picked up the telegram which Mr. Glenning had crumpled and thrown upon the floor. But his curiosity was only partly satisfied by reading:

Mr. John Glenning,
Passenger on No. 44.
Effervescent Albany.

Had he possessed Mr. Glenning's code he would not have been much wiser, for the translated message simply read as follows:

The party wanted is in Albany.

II.

MESSRS. Constable, Glenning and Hertzog were engaged in the general practice of the law, but Hertzog was the only lawyer in the partnership. The others were merely members of the Bar.

Mr. Constable's aptitudes lay in the line of drumming up business. He was known, although he did not know it, as the "barker" for the firm. He belonged to eight clubs; he was identified with fourteen charities, among which he counted three chairmanships; he was in the vestry of a prosperous church and on the Visiting Board of two hospitals; sixteen corporations published his name as a director, and the same sixteen acknowledged his firm as Counsel. Mr. Constable was in the public eye.

Mr. Glenning was not in the public eye, but he had its ear, provided public was spelled with a capital P and the right political party was in power. Mr. Glenning had been a member of the firm for twenty years, which proved that the right political party generally was in power. What his functions were no one seemed to know, but unquestionably he was a

very busy man. A very serious, earnest believer too in his profession was Mr. Glenning, and impatient of the silly slights and slurs ever ready on the tongues of the outsiders. Thus when an alleged wit said something about "more cases being decided at the trench than at the Bench," Mr. Glenning, who dined more with the Judges and knew them better than any other man in town, snubbed the speaker and disposed of his remark as "a sneer of the unsuccessful."

Everybody understood Hertzog's work. It used to be said that his two best clients were Constable and Glenning, but then people are always saying bitter things for want of better.

Mr. Constable was a florid-faced, white-whiskered, well-dressed little man, bright, quick and full of energy. There were those who considered him pompous, and it is true he regarded himself very seriously. But most people took him at his own estimate. In the outer office his manner was sharp, short and decisive; in the inner office he was silent, impressive and indecisive. That is to say he listened thoughtfully, earnestly, sympathetically, intelligently, comprehendingly—in any and every way that inspires confidence, but no

one ever lured him into expressing an off-hand opinion. His decisions were always "decisions reserved."—"Reserved for Hertzog," muttered "the unsuccessful."—But luckily Mr. Constable never heard them, for, like Mr. Glenning, he was intolerant of flippancy in every form. He was also intolerant of details.

If anything went wrong in the office Mr. Constable shook off all responsibility for it. "That is a detail of which I know nothing," was his ever present phrase in time of trouble, and this, accompanied by a wave of his hands, cleared the atmosphere in his vicinity. A detail in Mr. Constable's meaning was anything uncomfortable to remember. "That is a detail with which I do not charge my memory," he would say, and he was never contradicted.

There was no firm in the city more prominent than Constable, Glenning and Hertzog, and none more highly esteemed. Possibly Mr. Constable emphasised this a little too often, but perhaps his insistence impressed some of the very people who pretended to laugh at it. "A firm of our standing," was another of his pet phrases, and on this he rang the

changes with such genuine pride that those who did not envy readily forgave him the touch of conceit.

Still there were those who would not have grieved had the firm lost its standing in the Hydroid Fibre case. But the mud there only reached Horton, the office Notary Public, and he went to Sing Sing for his cleansing.

It was at the annual meeting of the great Hydroid Fibre Co., during a bitter fight for control, that one of the stockholders repudiated a proxy bearing his name and carrying votes in favour of Mr. Constable. The signature was an evident forgery, and ugly things were said. Horton, the Notary Public who had witnessed the paper and taken the signer's "acknowledgment," was sent for, but could give no adequate explanation.

Mr. Constable, though dumfounded at the disclosure, acted with commendable promptness. He instantly ordered the arrest of Horton and silenced accusation by placing himself in the hands of his counsel, Mr. Hertzog, and demanding an investigation. This inquiry clearly demonstrated that Mr. Constable controlled more votes than were necessary without the disputed shares. Horton swore that the

bogus stockholder had been properly identified, and claimed that he had been artfully imposed upon, but of this there was absolutely no proof. Not a trace of the swindler could be found.

But the firm did not rest satisfied with this vindication. A clerk in the office had proved untrustworthy, and of him it was determined to make an example.

The District Attorney's office was not a little proud of the short work it made of Horton's case, and Messrs. Constable, Glenning & Hertzog, each in his own way, complimented the officials on having promptly closed what threatened to be quite a scandal, involving the fair name of the firm.

But Horton's case would not stay closed, and it was that which was "effervescing."

Horton's counsel, Barton Mackenzie, was one of those irrepressible persons who answer defeat with defiance, and gather courage with every fresh discouragement. But Mackenzie built up a record of disaster in Horton's case which surpassed anything he had ever experienced before. He was defeated before the Police Magistrate and Horton was held for the Grand Jury, which promptly indicted him on half a dozen different charges. At the trial the presiding Justice

ruled steadily against him, and the verdict of the jury adjudged his client guilty. Another judge refused a "certificate of reasonable doubt," and Horton went to Sing Sing with his case still on appeal. Eight weeks slipped by and then the Appellate Division affirmed the conviction. Three months later Mackenzie argued his client's cause before the Court of Appeals in Albany, but Horton had served nearly six months of his sentence before that tribunal decided he had been legally convicted. This brought Mackenzie to a standstill for a while, though Hertzog thought he recognised his hand in the subsequent badgering of Mr. Constable and the Hydroid Fibre Co.

One of those insignificant five-share stockholders, the pest of every corporation, began to worry the company with ceaseless questions, demanding every possible privilege accorded by the statutes. Who he was, or how he got his shares, was a detail of which Mr. Constable regretfully admitted "he knew nothing," and Glenning, exploring every underground passage known to politics, could not run the thing to earth.

This irrepressible shareholder examined the

list of stockholders, obtained statements of the treasurer, called for papers and particulars, and made a general nuisance of himself. His specialty, however, was interviewing President Constable. Hardly a week passed without his calling on this official.

"Here's that five-share man again," Mr. Constable would say, slipping into Mr Hertzog's private room. "Shall I see him?"

"Of course—see him."

"You will—er—drop in?"

"No—confound it! You've seen him with me often enough. What have you got to worry about?"

"Nothing. Nothing, of course—but——"

"Well, see him!"

Then Mr. Constable gaining confidence from his Hebrew partner's shrewd face would answer decisively:

"Very well, I will see him."

But in his own private office the President would be apt to run his fingers along the inside of his collar, as though it choked him, muttering, "Damn this business!" before he pushed his bell and ordered in his visitor.

Mr. Constable was subjected to another constant annoyance. Several of the daily papers

invariably coupled his name with some reference to the Horton case. A paragraph announcing his election to a trusteeship would identify him as "*the President of the Hydroid Fibre Co., who recently had a most unfortunate experience with a Notary Public now serving sentence in Sing Sing.*" Or, if his name appeared in some list, the paragrapher would add: "*Mr. Constable, it will be remembered, disposed of quite a serious charge in the Hydroid Fibre matter, some of the parties now being in Sing Sing.*"

It was incessant, intolerable, and intangible.

But one evening, in an after-dinner chat, Mr. Glenning had a short, whispered conference about the matter with a city official, and the city official dropped a hint next day to his advertising agent which must have reached the city editors, for the "squibbing" stopped. However, when Mr. Constable resigned from the Presidency of the Hydroid Fibre Co., the paragraphers took occasion to revive the whole story.

Then, as though tired of being in the public eye, Mr. Constable began to resign his trusteeships one after another, until his partners took alarm and vigorously protested.

"I'm not well," he answered, "and I don't want so much responsibility."

"But what about the business?" suggested Mr. Glenning.

Then Mr. Constable astounded them.

"Let me retire," he answered wearily.

But Mr. Constable's partners did not propose to have the business sacrificed in any such way. They would not hear of his retirement, and when he insisted, Mr. Hertzog remarked very pointedly that he did not presume to understand this gentle resignation business, but if there was any little game on hand he proposed to be in it for the next three years at least. About money matters Mr. Hertzog cherished no illusions, and at the word dollar Hester Street instantly reclaimed him.

There was no "little game," Mr. Constable hastened to assure him. It was simply that he could not do justice to the firm or himself. He was a sick man—a very sick man.

"Then take a vacation. Go into the country and stay as long as you like, but drop this retirement nonsense," commanded Mr. Hertzog, and the senior partner turned away wearily without another word.

"It's the reaction after that cussed Horton

affair," Mr. Glenning remarked; "he was snappy enough about that until Mackenzie was finally knocked out, but since then he's drooped. Reaction, I suppose—don't you?"

"Yes."

Mr. Hertzog was seldom more than monosyllabic, but his eyes followed the wilted little figure of his partner with more anxiety than the word implied. Alone in his private room he frowned, muttering to himself:

"Reaction—yes—or action.—Costing us thousands of dollars anyway. Confound the little fool!"

III.

MR. CONSTABLE'S physician recommended rest and a complete change of scene. With all the world to choose from, the patient made a peculiar selection for his place of sojourn. It was Sing Sing, on the Hudson. But Mr. Constable strictly complied with the Doctor's advice in not allowing anyone to know his address.

There is not much to be seen in Sing Sing except the State Prison, but Mr. Constable saw that very thoroughly. For two days he spent all the time allotted to visitors in making himself acquainted with convict life. He was

writing a novel, he told the Warden, and wantedlocal colour. No—he did not know any one in the prison—he was an Englishman, and only on a visit to this country. Would he like to make a tour of the buildings with the Warden? Nothing, he declared, would give him greater pleasure—he was interested in every detail. So, escorted by the Warden, he passed through the clean, well-aired corridors, inspected the orderly kitchens and the huge laundries, viewed the immense workshops filled with convicts toiling in splendid, disciplined silence, watched the men file to their meals, their hands hooked over one another's shoulders, their heads bent down, eyes upon the ground, bodies close together, and their feet keeping time in the lock-step prescribed by the regulations.

It was all very impressive, he told the Warden—a wonderful triumph of system and discipline. He congratulated the official, and was invited into the private office for a smoke and chat.

Did the Warden suppose there were any innocent men in the cells? Very likely there were some—it was not uncommon for prisoners to have new trials granted them, and occa-

sionally a man would be acquitted on these second trials. Did many of the men return after serving sentence? Yes, a good many. Why? Well, principally, the Warden supposed, because it was hard for an ex-convict to get an honest job after he got out. "Damned near impossible, unless he has mighty good friends," the official added feelingly.

Was not that a reflection on the system? Well, the Warden wasn't there to pass on that —the Prison Association had undertaken to handle the question, but he couldn't see that they'd done much with it.

But the innocent men—the men who were afterwards acquitted—they would be—they were not ex-convicts? No, the Warden guessed they were all right. And the pardoned ones? The Warden smiled.

"I'm not very strong on pardons myself," he admitted. "I'd about as soon employ an out-and-outer. Too much politics in pardons for me. Moreover, sometimes they're not appreciated. We had a queer fellow here once who served five years, and was a model prisoner too. Well, when he was discharged someone met him at the station with a pardon from the Governor. 'You cur,' he

shouted at the man who handed it to him, 'get pardons for those who need them!' With that he tore the paper into bits, threw the pieces in the man's face and gave him a terrible thrashing. We never learned what the trouble was, though the fellow served two more years for the assault. But some of us thought he must have been innocent all the time. However, when he came out again nobody offered him another pardon."

The next day Mr. Constable visited the prison without the escort of the Warden. In the work-rooms the silence of the workers oppressed him, but it was better than the language of some of the under-keepers which fairly sickened him. He had heard foul-mouthed men hurl epithets and profanity back and forth often enough, but never before had he seen the frightful answers which human beings can make without the utterance of a syllable. Many times that day he saw murder done with the eyes—the foulest, fiercest, most glutting murder of which the human heart is capable. In every regulation he saw manhood debased, individuality destroyed, education neglected, reformation defeated, and glancing from the faces of the convicts to those of the

keepers, he could not say which this "splendid system" had most brutalised.

Then Mr. Constable returned to his cheerless room at the hotel and locking himself in, lay down on the sofa, only to offer his body as a pavement for files of close-cropped and shaven men who passed over him with the steady tramp-tramp, tramp-tramp of the lock-step, stamping him into the ground gladly and sternly, gloatingly and viciously—deeper and deeper, until he felt the damp earth upon his face and heard less and less clearly the tread of those marching feet.

Then it ceased altogether and Mr. Constable smiled in his sleep as he dreamed he was dead, only to awake with a shriek when he felt that he was living.

The next morning the Warden met him on the street.

"How's the local colour getting on?" he asked pleasantly.

"I was working with it all last night."

The Warden stared silently at the speaker for a moment, frowned slightly and passed on.

"Good God!" he muttered to himself, "if it makes a man look like that to write, I never want to read again."

Mr. Constable left Sing Sing for Niagara, where he stopped long enough to write a letter in the public writing-room of an hotel. The composition of this missive, however, consumed several hours, for the writer kept glancing apprehensively over his shoulder and when anyone approached the table he covered his paper with the blotter and waited until he was alone again. But when at last the letter was finished he omitted to sign it, which was the more neglectful since no one could possibly have recognised the shaky handwriting as that of the snappy, energetic, confident Mr. Theodore Constable. Even the clerk in the New York Post Office who handled the envelope cursed the writer as he puzzled out the address.

Mr. Constable next visited Detroit presumably for the sole purpose of dictating curious statements to the hotel typewriter. These he mailed to New York with some enclosures, addressing the envelopes in large, childish capitals.

The rest of his vacation was spent in the bedroom of a second class boarding-house in Chicago.

At the end of three weeks he returned

to New York looking far worse than when he went away. Mr. Hertzog therefore hesitated to tell him that Horton had moved for another trial on newly-discovered evidence.

But the matter could not be kept secret, for Horton's counsel had done more than claim he could prove his client's innocence ; he not only produced one or two strikingly significant exhibits received anonymously from Detroit, but also asserted he was daily obtaining clues from unknown friends in other cities which might lead to the discovery of a conspiracy, if not to the conspirators themselves.

Even a careless student of human nature must have observed the marked change which had taken place in Mr. Constable.

The lines that come gradually with age and experience give meaning and character to the face—even the traces of illness are not without a certain dignity. But when care begins to crease the face of self-complacence its effects are distortions, terrible as those which some iron implement of torture would suddenly produce.

Mr. Constable's florid countenance was without a line until it was wrinkled and furrowed and scarred.

Mr. Hertzog was shocked by the appearance of his partner. Was the man going mad? He had seen such changes foreshadow insanity. But if he was going mad—from what cause? He must make sure.

Mr. Constable sat in the junior partner's private office reading a copy of the affidavits supporting the latest move in Horton's long fight, and Mr. Hertzog watched him. He noted that the trembling hands left little spots of perspiration on the pages, he saw the twitching lips every now and then forming words—he counted the rapid throbbing of the arteries in head and neck. All this he had expected and discounted, but he was unprepared for the horrid look of cunning in the man's eyes, as he glanced up from his reading.

For a few moments neither of the partners spoke. Then Mr. Constable broke the silence.

"You think—you would say these papers were—that they made a strong case?"

Mr. Constable's eyes were fixed upon his partner in anxious inquiry, like a sick man waiting the decision of a doctor testing the heart or lungs.

"Yes, it's strong. Too damned strong."

The answer given slowly and with emphasis was received with a smile such as the face of a dead man might attempt with cracking skin and snapping muscles.

"And the papers—are they—should you say they were well drawn?"

"Yes—that fellow Mackenzie seems to have learned something during these years—damn him! By the way, how long did he get?"

"Who?"

"Horton, of course."

"Three, I think—yes, it was three years."

"Then he's served two years and—let's see—two years and three months."

Mr. Hertzog pushed the electric button in his desk. "Get me the Revised Statutes covering Sing Sing regulations," he said to the boy who answered the summons. The book was brought and Mr. Hertzog began studying its pages, his head resting on his hands and his elbows on the desk. For five minutes—ten minutes, there was silence.

"Don't let's take up this thing, Hertzog—I think—I think he'll win." Mr. Constable's voice was almost a whisper.

But Hertzog, engrossed in the volume before

him, did not hear. Mr. Constable glanced at the stern Hebraic face, flushed and changed his remark to a question.

"Do you think he'll win?"

The junior partner started up nervously.

"How the devil can I tell!" he burst out angrily. "What's the use of sitting there parroting 'Do-you-think-he-can-win? Do-you think-he-can-win?' He's got a damned good case on the merits. There's something in the Code that may fix him, but I don't count on it. Don't ask such idiotic questions. Of course I think he can win, but I also think he mustn't. If you want my opinion"—Mr. Hertzog swung himself about and cast a searching glance at the shrivelled, mean little figure crushed into the leather easy-chair beside him. "If you want my real opinion, Constable," he repeated, "I think we've *got* to win. Haven't we?"

For a moment Mr. Constable stared silently at his partner. Then shaking his head he mumbled a word or two, stopped, put his hand to his throat, began again, stammered a disjointed sentence and suddenly poured forth a torrent of confused and incoherent words that thickened into a clotted gurgle and freed itself

in a sputter swelling to peal upon peal of hideous, shattering, mirthless laughter—laughter which forced the man to his feet and rocked him with its spasms.

Hertzog leaped toward the door and fastened it. The clerks must not hear the horror of this. Then he darted to the window, but by the time he had closed it the laughter had died out, and Constable was quivering upon the floor, the blood gushing from his mouth.

IV.

"O, I know, Nurse, but I won't excite him—I'll go a long way toward curing him. You can trust me for that."

Mr. Hertzog pushed himself into the sick-room and walked toward the bed, waving a telegram in his hand. Mr. Constable smiled feebly at his visitor.

"Now, old man, I'm the doctor to-day. Are you up to taking my prescription in the form of a story?"

The invalid nodded.

"Even if it's about the—the Horton case?"

Mr. Constable nodded positively.

"Well, you remember, just before you were

taken sick, I told you I thought they'd got a pretty good case——"

"Yes, yes." The whisper was eager, expectant.

—"And the more I examined it the more positive I became that there was no chance for attacking it on the merits——"

The invalid lay back on the pillows and smiled foolishly at the man beside him.

—"So, of course, I advised the District Attorney to adjourn the matter for a week, and he did it. In the meantime I began to see daylight, and I told him to adjourn it again. But Mackenzie either saw the point or suspected something, for he fought like a devil against further delay, and we only got three days. Three days! Good lord—I had to have two weeks. And, to make things worse, yesterday old Judge Masterton was unexpectedly assigned to hold court, and Geddes is the only man in town who can approach Masterton on a delicate matter of this kind. But Geddes wasn't at home, and for nearly a day we couldn't get on his trail. Then we learned he was in Buffalo, but we couldn't find the District Attorney to get his consent to retaining Geddes. My God, we sweated blood, but we

couldn't find him—and every hour was precious. Finally Glenning had to start for Buffalo without the necessary consent. Two hours later I located the District Attorney, got what I wanted, and then learned Geddes had left Buffalo for Albany! Well, it was one chance in a thousand, but I wired Glenning on the express, caught it before it reached Albany—and Geddes is retained! What do you think of that?"

There was no response from the bed, and Hertzog bent forward to see if the patient was asleep, but stopped as the laboured speech of the sick man reached him.

"And Geddes—he will apply for another adjournment?"

"Yes, and win it, too. He's got Judge Masterton in his pocket, I tell you!"

"I don't—I'm not sure—I understand."

"Can't you see that Horton's sentence will expire before the motion for new trial can be heard?"

"Yes—but——"

The sick man raised himself on his elbow, and stared at his visitor.

"Well, when a man's served his sentence, the Court won't entertain an application for a

918345

new trial. So there won't be any public discussion of Horton's interesting yarns. See? Pretty good, isn't it? You'll have to study law when you get well, Constable. I tell you it pays. Tricks in all trades, you know, and there's nothing like—— Why, Constable, old man, what's the matter? Here, Nurse! Nurse! Come and look after your patient. He's struck me and he's trying to get out of his bed! You've got him?—Yes, of course I'll go—but I didn't say anything to excite him. All right, I'm going—but what in the world——"

"Write!" panted the sick man as the door closed, "and for God's sake write quickly, Nurse. Are you ready? Yes? Now then——

"*Barton Mackenzie,*
"99 *Wall Street.*

"*Another adjournment fatal. Constable dying. Makes full confession. See him at once.*

"Wire it, Nurse, wire it, and—let no one know! I thought I had done enough—but I'll do it—I'll beat them yet. Help me to live —till—he comes!"

IN HIS OWN BEHALF.

"WELL, Clancy, your case is on the Day Calendar, and is likely to be reached this week."

"'Tis thankful Oi am, Sorr."

Michael Clancy's two hundredweight of flesh and bones rested in my most reliable office chair, and Michael Clancy's huge hands were clasped over his capacious stomach, while his outstretched legs were crossed in a settled attitude.

Clancy had been entrusted to me by a sympathetic House Physician of an up-town hospital. The story made a "negligence case."

I had taken up the matter merely out of good nature, but the old man was a character, and I soon became interested in his personality.

For two years he had been a regular visitor at my office, ostensibly to make inquiries as to the progress of his law suit, but really, I think, for social recreation. A litigation does not advance very rapidly in a New York

Court for the first two years, and he knew this at the outset, but his calls were made with a regularity which suggested routine. If he chanced to come in while I was busy he never interrupted, but sat in the outer offices chatting with the clerks until such time as he judged his social duty had been discharged.

Clancy's confidence in me was certainly gratifying, but it took the form of completely transferring to my shoulders all responsibility for the case. His attitude toward it was that of a friend interested but not especially involved in the outcome. Whenever he referred to it, which was not often, he spoke of it as "yur kase," as though he had washed his hands of it but wished me well. There was no question about his gratitude, but his idea of expressing this was to put himself wholly in my care and give as little trouble as possible.

I once thought that the possession of another's confidence was a proper matter for self-congratulation, but I have never felt quite the same about this since I finished Clancy's case.

Michael's injuries had completely incapacitated him for work and his massive frame had taken on flesh until the ponderous body made

his head appear ridiculously small. His clean-shaven face was round, his eyes were almost tiny, and his mouth was like that of a child.

Although loquacious to a degree, his delivery was slow, and whenever he talked to me his every word was accompanied by an apologetic smile, so that even when he spoke of his troubles his cheeks wore a "permanent puff."

"Have you ever been in a court, Michael?" I asked as Clancy sat by my desk smiling his benedictions upon my news of an early trial.

"Oi hov not, Sorr—leastways not since Dolan's Nannie wuz afther bein' kilt be Beagan's pup."

I did not investigate Clancy's experience in that *cause célèbre*, although I saw reminiscence in his eye.

"I think we better go over your testimony, Clancy," I said. "It's two years since the accident occurred and you may have forgotten details—I'm sure I have. But you remember making this affidavit at the time—do you not?"

Clancy looked at the paper in my hand and then cast a knowing glance in my direction.

"Am Oi ter say—'Yiz'—Sorr?"

"Why you're to tell the truth, of course," I answered rather sharply. "But you must remember swearing to this."

"Must Oi now, Sorr? Thot's all right thin. But whisper, Oi only remimber a shlip av a gurl comin' in an' makin' little burd thracks in a bit av a book an' you spakin' to her thot pleasant-loike—'twas fascinayted Oi wuz."

I began to foresee trouble with this willing witness and to view Clancy in a new light. However I tried explanation.

"That was the stenographer taking down this affidavit," I answered.

"Wuz it now, Sorr? Oi'll not forgit ut."

I felt somewhat embarrassed by the gleam of cunning in Clancy's little eyes, but I pretended not to notice it and continued:

"I'll read the statement to you and that will refresh your memory. Then we can go over the questions you are liable to be asked."

"'Tis as you loike, Sorr."

Clancy settled himself, with resignation rather than interest expressed in his good-natured face, but I knew he was all attention.

"*City and County of New York ss:*" I began.

"Shure, Counsellor, Oi niver said thot.

Faith, Oi want ter hilp yiz with yur kase, but sorra a wurd loike thim iver passed me lips."

"O, never mind, Clancy!" I exclaimed, silently cursing my indiscretion. "That's only a legal phrase with which every affidavit begins."

"All right, Sorr. 'Tis for you ter know."

Again Clancy assumed his attitude of resignation and I read on:

"*Michael Clancy being duly sworn deposes*
"*and says that he resides at No.—West Ninety-*
"*third Street, in the City of New York, and*
"*that on the 15th day of May*, 1896, *he was in*
"*the employ of the Cavendish Tool Company.*"

"Thrue for you, Sorr—an' bad cess ter thim," commented Clancy.

"*That previous to May* 15, 1896, *he had been*
"*in the employ of said Company for nine*
"*years*——"

"'Twas not so long, Sorr, for whin me sisther-in-law Theresa's sicond child, she thot aftherwards married Bicie Sullivan's lad, wuz sick at th' toime av me wife's brother's wake, Oi stayed from wurrk two days fur ter luk ter th' child an' so——"

"O, well—that's near enough—say nine years," I interrupted.

"Oi'll say whativer you want, Sorr—but, be th' same token, 'tis thruth Oi do be tellin' you now—betwane oursilves loike."

I looked sternly at Clancy's rotund countenance. This case was looming up pregnant with possibilities in the presence of a witness with ready-made testimony and confidential truths. Clancy as a character was all right, but, as a client? I began to be alarmed. This had to be stopped.

"Now, understand once and for all, Clancy," I exclaimed almost threateningly, "I don't want you to tell anything at any time except the truth."

Clancy relapsed again.

"'Tis for you ter know, Sorr," was all he said.

I looked at the man with desperation in my eyes.

"Now, Michael, listen to me. If there's anything really wrong in the affidavit, stop me; but, if it's unimportant, don't let's waste time on it. Now, where were we? Here it is:—'*had been in the employ of said Company for nine years*——'"

"Av coorse, thot's moindin' what Oi do be afther tellin' you, Sorr."

"Good lord, man! For *nearly* nine years then. Will that satisfy you? We'll never finish if you keep this up!"

"'Tis dumb Oi am, Sorr."

Clancy's big hands waved off further reproaches in a little gesture half soothing, half disclaiming.

Then all intelligence faded from his face, and he sat with closed eyes, punctuating my sentences with nodding head, as I continued from the text of the affidavit.

"*During those nine years*" (Clancy winced, but kept silent), "*he was engaged as a porter* "*in the Company's main office, in Fulton Street.* "*On the morning of May* 15, 1896, *while en-* "*gaged in sorting merchandise on the fourth* "*floor of said building, a shelf on the north side* "*of the room gave way, and a keg of nails fell* "*upon his spine, inflicting serious injuries.*

"*Deponent did not erect said shelf, nor was* "*the same erected under his direction, nor was* "*the merchandise upon it placed there by* "*deponent or deponent's orders.*

"*Deponent further avers that he never knew* "*the said shelf was unsafe, although the Super-* "*intendent had been told that one of its brackets* "*needed repairing.*"

I continued reading the rest of the long statement without interruption from Clancy. Even when I finished he made no comment, and I thought him depressed in spite of his smile, so I spoke up cheerfully.

"That's the story, Michael. It all comes back clearly enough now, doesn't it? There's nothing like having these affidavits made out at the time, so one can recall all the facts. Now there's very little more work to be done. You remember I had diagrams made of the room where you were working, so we have those, and the Doctor's sent me word that he's ready at any time. There were no other witnesses, you say? Well, then, let me hear you tell the story in your own way, without any prompting from me. Begin by describing the place. Now, go on."

Clancy smiled contentedly, leaned forward in his chair and slowly rubbed his knees with the palms of his hands.

"Beyant th' dure," he began, "there do be a laarge room, with foive windows in ut, an' a stairkase ter th' left hand soide goin' up-stairs. In th' cintre av this room they do hov two rows av stoof an' th' same is on shilves foreninst an' behoind thim——"

The picture was not entirely clear, but I spoke up hopefully:

"Yes; and in this room you worked?"

"Oi niver did, Sorr."

"Then describe the room where you did work," I answered, wearily. "No other room is of any importance."

"Will you leave me tell ut in my own way, Sorr?"

"Yes."

"Well, Sorr, 'twas this way ut wuz. There do be a gang av min on th' fourth flure handlin' stoof thot's afther comin' outer th' elevaytor. Th' elevaytor do be nixt th' stairkase, an' th' min stand in loine an' roll th' barruls wan to anither clane acrost th' flure. Th' furst feller do be called 'the guide,' an'——"

"And you worked with these men?" I interposed.

"Shure Oi niver had onythin' at all to do with thim. But minny a toime Oi've seen thim——"

"Wait," I said, "this won't do. I'll start at the beginning, and ask you questions just as though you were in Court, and you answer them."

Clancy looked a bit troubled, but he shifted

himself in his chair and said, "Yiz, Sorr," brightly enough.

"Mr. Clancy," I began in my best jury manner, "where do you reside?"

A light gleamed in the witness's eyes.

"City an' County av New York—SS!" he burst out proudly.

I dropped the paper on my desk and groaned aloud. But when I saw the look of crushing disappointment on Clancy's face I forced a smile and said,

"Try to forget that, Michael. It has nothing whatever to do with your testimony. Now let's begin again—Where do you reside?"

"Shure you know, Sorr."

"Yes, I know, Clancy, but the jury doesn't and we're supposed to be in Court. Answer just as you would before the jury. Now—who employed you in May, 1896?"

"A boonch av scuts—no less!"

I sighed hopelessly. It was useless to continue this game.

"Perhaps we've had about enough for to-day, Michael," I said. "Go to Court to-morrow and listen to some witnesses testify. You'll soon get the idea. Then come down to the

office in the afternoon and I'll have some questions written out so that you'll know about what you're to be asked. There's nothing like thorough preparation. By the way, do you want to add anything to the affidavit? The facts are all right as far as they go, I suppose?"

Clancy hesitated, wiped his mouth once or twice—smiled out of the window and ended by a general shift of his bulk. But he did not speak.

"What is it?" I asked encouragingly.

A gesture of disclaimer, almost coy this time, prefaced his reply.

"Shure Oi don't loike ter throuble you, Sorr, an' 'tis as loike as not to be wan av thim deetales you was spakin' av——"

"Never mind, what is it?"

"Well, Sorr, Oi don't seem ter call ter moinde th' lad thot's been afther sayin' an' doin' some av thim things."

The excitement had evidently been too much for Michael's head, but to soothe him I asked,

"What lad, Clancy?"

"Daypont, Sorr."

"Daypont?" I repeated.

Then I picked up the affidavit, and light dawned upon me.

"You don't mean *deponent*, do you?"

"'Tis the same, Sorr—Shure he niver wurrked fer thim in all me toime."

A penholder broke, but I slowly minced a blotter before I trusted myself to explain.

"Deponent means you, Clancy."

"Is ut me?"

"Certainly. For instance——" here I picked up the affidavit.—"This reads '*Deponent did not erect said shelf*,' and that means, you did not erect it,——"

"But Begorra, that's just what Oi did, Sorr——"

"What!" I shrieked.

"Oi builded——"

"You built the shelf that fell?"

My voice was desperately calm but the pencil in my hands was playing a tattoo on the desk.

"Shure, Oi did, Sorr."

"Then why in the name of common sense, man, didn't you say so before?" I burst out.

"Shure Oi didn't loike ter throuble yiz, an' you readin' it out so beautiful-loike. An'

faith, Oi thought 'twas some scut av a Daypont you wuz spakin' av as not doin'——"

Clancy looked at me and my face must have been awesome, for he stopped with mouth agape.

"*Nor was the merchandise upon said shelf placed there by deponent?*" I read inquiringly.

"'Twas Oi that put ut there av a Friday marnin,' Sorr, an'——"

"*Deponent further avers*," I continued with fearful calm, "*that he never knew the said shelf was unsafe?*"

"Shure 'twas the day befure Oi was spakin' to th' Super, an' ses Oi to him—O'Toole, ses Oi, the shilf forninst the dure is broke, ses Oi, but Oi've stooffed a bit of sthick in fur a nail, ses Oi, an' 'twill holt good an' ut don't come down, Oi ses. Moike, ses he——"

"For Heaven's sake man, stop! You must have known all this two years ago—why didn't you speak then?"

"'Twas afraid av throublin' yiz with deetales Oi wuz. Do ut make any difference, Sorr?"

"Difference!" I burst out. "Your case is absurd—utterly impossible and absurd!

Why, man—you haven't got a leg to stand on!"

Clancey looked at his feet for a moment.

"'Tis me spoine——" he began.

Then he stopped and smiled.

"'Tis for you to know, Sorr," he added, sadly.

I didn't laugh, for I saw tears in Clancy's childlike eyes.

But I discontinued that action, and my affidavits now read with unprofessional clarity.

HIS HONOUR.*

VAN was out of temper. Van, the calm squelcher of office boys—the recognised saviour of managing clerks—the patient instructor of sophomoric attorneys—the courteous Guide, Philosopher and Friend for all busy members of the New York Bar—Van, whose serenity and sanity had withstood some thirty years of service as Chambers Clerk, was in ill humour.

Unusual as this was, it might have been explained if the Judge who throws papers on the floor had been upon the Bench. But his Honour was presiding over another Court. Martin, therefore, put it down to the weather, which was hot, and resigned himself to waiting, which was wearisome.

The Court-room was stuffy as usual, and crowded as always. Martin languidly studied the lawyers about him, trying to guess the kind of business each represented. Here he

* The Judge who hears litigated motions does not now sign ex parte orders. The inside history of this change in the practice may some day be found in a biography. Meanwhile this tale is told "without prejudice."

prophesied a struggle for "costs," and there a contest for "time." In one face he read the cunning of the technical trickster, in another the earnest belief in a Cause, and idly took to betting with himself on his prognostications.

The low droning of voices had a soothing note, and the hot atmosphere of the room soon set him nodding. A moment more and he was out of the Court, far away from the lawyers—at the east end of Long Island, with the strength and vigour of early Autumn in the air. For some seconds he was dimly conscious of a man standing near him asking an oft-repeated question. Then he woke with a start and saw Allison.

"Do you always sleep with your eyes open?"

"Ye—yes," he yawned, rubbing the optics in question, "it's a trick I learned from a front seat and a dull lecturer at college."

"Well, what are you doing here beside dreaming?"

"Waiting to get some papers from Van."

"Why don't you get them then, and go home to sleep?"

"Van's off his trolley to-day. Got to wait."

"Um.—'Furioso' on the Bench?"

"No.—Hot weather, I guess."

"Ah. Who's on deck then?"

"I don't know, and Van couldn't, or wouldn't, tell."

"Well, I was about to ask you to take charge of a little matter for me, but I'm afraid I oughtn't to keep you out of bed."

"What's it about?"

"Nothing but opposing an application for a bill of particulars. I don't care very much whether I win or lose. Merely contest it as a matter of form. You can submit it without argument, if you'd rather, but I've another case in Part IV., and can't wait here. Will you do it, you dormouse?"

"Yes—provided you won't damn me if you lose."

"Don't care a cuss."

"All right."

"Thank you. Good-bye."

Martin glanced lazily at the papers Allison tossed into his lap. *Phelps* vs. *Orson?* What number was it on the calendar? He pulled the *Law Journal* out of his pocket and consulted the list of "motions." Twenty-second case? Good lord—Allison had buncoed him! If he argued that motion he'd have to stay in

the stuffy Court-room all morning. But he wouldn't argue it—he'd give the papers to Van, and let him hand them up to the Court when the case was called. Martin stuffed the documents into his pocket, and lolling back in his chair, tried to regain those scenes from which Allison had rudely torn him. To further this, he rested his head in his hand and closed his eyes. But try as he might, he could not again rid himself of his surroundings, for there was more movement all over the room as the waiting crowd grew restless, and directly back of him two men whispered with maddening persistency. For a time Martin tried to fuse their sibilants into the general buzz, but failing in this, began to listen to their conversation. In a few seconds he ceased to hear any of the other sounds going on about him.

—"Then Van doesn't know," one of the men asserted. "I tell you Colton's ill and he's been assigned to take his place. He's never sat here before? Well, of course not. That's just the point. You've got a head like a tack! Now listen to what I say, and, for God's sake, don't make a mess of it. The order's in a green cover like this——"

The speaker paused and Martin almost turned, but checked himself in time.

"No, there ain't many this colour.—You can't miss it if you keep awake. It'll be handed to Van sometime before recess. When he gives it to His Nibs you watch it like a cat, and the minute he signs it make for the telephone and notify 'em at the office. They'll keep the wire open. Now d'ye think you've got sense enough to work this thing straight?"

The other man made no response, but probably nodded, for his companion continued:

"All right then. I'm o double f. But remember if you botch it, you'll be wanting a new job."

The speaker rose and passed before Martin, who languidly glanced at him and then strolled into the Rotunda. Mullin the process-server stood, as usual, near the door. Martin touched his arm.

"Mullin," he began, "didn't you want to bet me a few days ago that you knew every man who entered this Court House?"

"Sure. Wanter take me up?"

"Yes," answered Martin, hurrying him toward the right hand stairway. "Bet you a good cigar you won't know the man in grey

clothes we'll see coming down from the other side."

They had just reached the first landing when the person in question passed through the open hall below.

Mullin laughed.

"I'll take a 'Carolina Perfecto,'" he said and began to move up the steps again.

"Do you know him?" questioned Martin, slowly following.

"Sure. Everybody knows him. Give us something harder."

"Well, who is he?"

"Nevis—of course."

"Who's he?"

"Boss reporter of *The Guardian*."

"O, I thought he was a lawyer."

Martin spoke in a tone of disappointment.

"Nope. Too smart for that!" laughed the process-server.

"Well, I owe you a cigar, I suppose. We can't get a Carolina Perfecto here, but I'll see you when Court adjourns, or if not then, some other day."

"All right, Mr. Martin, your credit's good, I guess."

Nevis of *The Guardian?* What did that

dirty sheet have to do with Court orders in green covers or any other covers? What sort of boys worked for such papers now-a-days? Martin had himself served an apprenticeship in the newspaper world and still felt a lively interest in the ways of Park Row. He would have a look at the cub reporter left on guard. With this purpose in view he returned to the Court-room, but the moment he entered the door the object of his quest was completely forgotten. The judge had already ascended the Bench, and His Honour was Charles Blagden, Esq.

Martin slipped into a rear seat and watched the youthful face of the man behind the desk.

There was no love lost between Martin and the Hon. Charles Blagden. They had met as lawyers and Blagden had been the victor; they had met as men to differ on every matter of opinion and taste; they had met as rivals and Martin had written a letter of congratulation which had cost him the bitterest thoughts of his life. But Fortune continued to shower gifts upon her favourite and not very long after his marriage, an appointment to a vacancy on the Supreme Court

Bench made Blagden the youngest Judge in the City.

Charles Blagden was a careful lawyer and he made a capable Judge—so capable, indeed, that his political party had just nominated him as its Judicial candidate for the coming November elections.

But not satisfied with the start which Fortune had thus given, the hero-worshippers set out to make Fame meet him half way.

What silly discoveries are made in the light of one small success; what senseless tributes are inspired by achievement—no matter what the agency. Blagden's capability as a lawyer became "distinguished ability" on the tongues of hundreds of his fellow-citizens who never knew him. There were dozens of prophets who had always "marked him out," and scores of men ready with stories and anecdotes of his prowess and skill.

Martin had watched Blagden's career with a jealousy but little removed from positive hatred, and every word of this indiscriminate praise fretted him almost past endurance. He felt himself as able a man as his rival, he knew many lawyers more worthy of distinction and, smarting under the injustice of these

sudden acclamations, he began to grow contemptuous of public esteem.

It was not long, however, before he awoke to the danger of brooding over such thoughts. The world was big enough for them both, and the mighty metropolis was a world so wide that the blotting out of any face was only the matter of a step in the crowd. This man should not spoil or embitter his life.

From the moment of that resolution Blagden disappeared from his horizon, and Martin began to view life again from his normal standpoint.

It was only when business threatened to bring him into Blagden's Court that he experienced the old feeling of bitterness. But then it returned with a rush. One such lesson had been sufficient to warn him however, and Martin thereafter appeared before Judge Blagden by proxy only.

It was just as well, he thought, as he felt the hot blood surging through his veins, that Allison didn't insist upon his arguing *Phelps* vs. *Orson*. It would have been impossible to address that Self-Satisfied Piece of Humanity with respect. Thank goodness he could escape by handing the papers to the Clerk!

He rose and passed along the rear of the Court-room. In the far corner sat a newspaper artist sketching the Judge and the scene about his desk. Martin glanced sharply at the man, but he was absorbed in his work and obviously not on the outlook for green-covered law papers. Nearer the front, however, sat a young fellow studying every movement behind the rail, and sometimes even rising nervously from his seat in his efforts to keep a clear view. This was undoubtedly the youth whose place depended on his vigilant watch of the Bench. What the devil was it all about? In an instant his old newspaper instinct had carried everything before it and Martin passed down the middle aisle, seating himself immediately behind the young reporter.

"*Phelps* vs. *Orson*."

Martin started at the sound of the Judge's voice, every fibre in his body tingling with instant defiance.

The defendant's attorney answered "Ready," but Martin made no response. He knew he did not intend to argue the case and should promptly state the fact.

"*Phelps* vs. *Orson?*" repeated the Justice inquiringly.

"Ready!" answered Martin, yielding to the call of sheer perversity.

It was childish, petty, absurd—and he knew it. But at that moment to defy custom, to oppose everything and everybody, to hamper and obstruct the Court in every possible manner, no matter how futile, seemed absolutely essential to the assertion of his independence and the maintenance of his self-respect.

Some one vacated a seat immediately in front of the nervous reporter who hastily gathered his papers together and moved into the empty chair. Martin at once rose and took the journalist's place. As he did so he felt something crackle beneath him, and rising picked up a crumpled piece of paper from the seat. It was a sheet torn from a reporter's pad, and as he lazily unfolded it Martin saw it was covered with writing in a weak, boyish hand. To the initiated the scribbles were unmistakable studies in newspaper captions or headings—the "make up" of which Martin recalled as a fad of his cub-reporter days.

The first attempt was as follows:

"A CANDIDATE CORALLED."

Then came several other "settings:"

"A SUPREME COURT SCANDAL."

"A JUDICIAL JUDAS."

"A DANIEL COME TO GRIEF."

This last effort apparently satisfied the embryo city editor, for his sub-headings were written below:

"AN EXTRAORDINARY COURT ORDER UNEARTHED BY *The Guardian*."

"It Bears the Initials of the Hon. Charles Blagden, Candidate for Judicial Office."

"A Searching Investigation to be Instituted. Lawyers Indignant. Litigants Astonished."

Martin read the words with savage satisfaction.

So, the Hon. Justice was playing tricks, was he—and not very good tricks either? He was on the point of being exposed—was he?

Well, it was about time something happened to those noiseless wheels of the little tin god! People were beginning to believe there was something miraculous in his transit. It had long been heretical to suggest either pull or push. But both agencies have to be paid for in one way or another, and at some time.—To pay whom or what was this green-covered order required?—What a shock it would be for the worshippers to see their metal divinity wobbling on his stand and to hear the shrieking of his squeaky rollers! Fortunately for him some of his triumphs were secure, but it would be interesting for at least one person to discover——No, she would never discover anything. Charlie would tell her it was all right—and that would make it so.—"Charlie," indeed!—Ugh!

A sharp movement in front of him aroused Martin from his bitter musing. The young reporter was leaning forward in his chair, staring at a little clean-shaven Hebrew who had entered the room and was leaning on the rail, a green-covered legal paper in his hand.

Van took the document from the messenger, shook it open and placed it at the bottom of

the pile of orders on the Judge's desk. The Court had already begun to hear arguments, and as the Counsel talked the Judge occasionally took up one of these orders and signed it. Clerks kept entering the room from time to time, handing papers and orders to Van, who added them to the rapidly-increasing pile on the Judge's desk.

Meanwhile Martin stared at the green edge of the order in which *The Guardian* took such a lively interest. How did that paper come to know its contents? *The Guardian* was politically opposed to the Judge's party—was, indeed, the semi-official organ of the enemy. It could not be in the confidence of the Judge's friends. No avenue of exposure would be more carefully watched than that which led to the columns of *The Guardian.* There must be a traitor in the camp. Or perhaps some honest man, despising underhand methods, had given the clue to the most effective police. But if an honest man desired to protect his party, would he not frustrate the scheme rather than expose it after it was accomplished? Yes, some traitor must be selling information to the opposition. *The Guardian* certainly would not hesitate to buy dirty

secrets. It was savagely partisan—unscrupulous and daring. It fairly slobbered with the froth of sensation—lived on scandal, and obtained its pabulum by any and every means. Thus far there had been little to feed upon in the career of the Hon. Charles Blagden. But it would not shrink from providing itself with carrion if a touch of one of its underground wires would suffice.—Might not *The Guardian* know the history of the green-covered order at first hand?

Martin dismissed the thought again and again, but it gathered strength and substance and forced itself upon him. He recalled the words of the Boss Reporter about Blagden's never having sat at Chambers before. He had explained that that was "just the point." And the point was—? Obviously that the work at Chambers was hurried, and that a novice would be apt to sign papers without due deliberation.

What could be easier for a sheet like *The Guardian* than to trump up a legal proceeding of some sort, and to concoct, with the aid of cunning lawyers, an order unobjectionable on its face, but which would compromise the reputation of any Judge who signed it? If the

plot miscarried, the conspirators could readily cover their tracks and make good their escape. —It was a dangerous game but not a new one.

And if all this were so, what had he, Martin, to do with it?

Of course if Blagden was playing tricks he deserved to get caught and no one but the hero-worshippers could be expected to cry.—But if he was being tricked?—That was just the question to be decided. He, Martin, was merely a spectator, interested in the event, it is true, but still only an onlooker.—Was that true? Had not that rôle been forfeited when he acquired special information? Was his attitude a perfectly passive one? If any other man than Blagden was on the Bench would he not instantly communicate what he had heard? Would he feel no disappointment whatsoever if Blagden refused to sign the order? Frankly —was he not waiting to see his enemy walk into what he believed was a trap?

Martin flushed at the silent self-accusation and instantly pronounced it absurd. What could he do? Any man who goes on the Bench has to assume grave responsibilities and take the risk with the honours. Blagden's attitude had always been a silent boast of needing no

help from anyone. Would not interference give him an opportunity for retorting that "he had the office and Martin the officiousness." How he would roll that under his tongue!—No, Blagden could take care of himself. He would never thank anyone for playing nurse for him.

The papers on the Judge's desk were piling higher and higher, and he began to sign or reject them more rapidly as the time wore on. Martin glanced at *The Guardian's* order. It was still buried under a dozen others.

Why did he think of it as "*The Guardian's* order"? He had no proof of the matter. But were not his suspicions strong enough to excuse a warning? What did he fear? A snub? Well, that was better than "*the laughter of the soul against itself when conscience has condemned it, which the soul never hears once in its fulness without hearing it forever after.*"

How often he had repeated those lines to himself! What a hopeless, haunting sound they had in them! He hated this man—but was he willing to wear the *The Guardian's* mask and hear forever after the hideous laughter of the soul?

Martin glanced again at the Judge's desk, and then rapidly writing a few words on a piece of paper, folded and addressed it to the Hon. Charles Blagden, and carried it to the Clerk's desk.

Van, restored to his usual good humour, met him with a smile.

"Why didn't you come earlier for your papers, Mr. Martin?" he whispered. "I've had them here for you ever since Court opened."

"Much obliged, Van. Just hand this note up to Judge Blagden—will you?"

"I can't do it, Mr. Martin. His Private Secretary says it's one of his fads. He won't even let us hand him telegrams when he's on the Bench."

"But this is more important than a telegram, Van," replied Martin in a low tone. "Hand it up to him and I'll assume all the responsibility."

"I'd like to oblige you, Mr. Martin, but——"

"You will not be obliging me, Van, but him."

The veteran clerk gazed at the earnest face of the lawyer for a moment, and then reached out his hand for the letter.

"I'll try it, Mr. Martin," he whispered.

It was some moments before the Justice noticed Van standing near his chair, and raised his eyes inquiringly. The clerk held out the folded piece of paper, but Blagden frowned and impatiently waved the official away. For a moment Van lingered, but when the Magistrate swung his chair so as to turn his back on the interruption, he rejoined Martin and handed him the rejected note, with a smile and a shrug.

Martin took it and sat down again with a distinct feeling of relief. He had done all he could. If there was anything wrong with the order he had tried his best to call it to the Judge's attention, and that pompous fool had rejected the opportunity. He might as well hand up the *Phelps* vs. *Orson* papers and go back to the office.

Martin pulled the small bundle out of his pocket and studied the indorsement. *Phelps* against *Orson?* Why, that must be the case Dick Phelps had talked about for half an honr at the Club the other night. Of course it was—Allison was his attorney. Well, that was rather odd. Martin wrote "*submitted*" on the first paper in the bundle, and then glanced

at the Bench. The green order was fourth from the top.

Why the devil did his heart keep thumping with excitement! He had done more than ninety-nine men out of a hundred would do. Anything more would be asinine interference for which he would have time to repent at leisure. He'd get right out of that stifling Court Room—

"*Phelps* against *Orson*," called the Judge.

For a heart-beat Martin hesitated. Then he rose to his feet and walking directly to the Counsel's table slipped the rubber band from his bundle of papers and sat down.

As his opponent began to speak, Martin lazily read through his papers, making an occasional note on a loose sheet of legal cap. When he looked up again the green order was second from the top. Then he shoved his chair back and watched the Judge who, as the Counsel ceased speaking, took up another paper, leaving the green-covered order at the top of the pile.

Martin glanced at the clock and noted that recess would begin in twenty-five minutes. Then he sat quietly and waited till the Judge, surprised at the unusual pause, looked at him, and nodded.

"Proceed, Mr. Martin."

Martin gazed fixedly at the Bench and rose with great deliberation and dignity.

"If it please the Court," he began solemnly, "this is, on its face, a simple motion for a bill of particulars—part of that sparring for position which precedes every legal encounter. But at the outset I ask the closest possible attention from the Court, for before I have finished I expect to show that this apparently simple motion cloaks a matter of vital importance, not only to these litigants but to the public at large."

Judge Blagden leaned back in his chair and listened to the lawyer with grave attention. The attorney for the defendant stared at the speaker in blank astonishment.

It was, Martin continued impressively, a case in which a knowledge of all the facts was of supreme importance. To understand certain actions one must follow the wires that control them, underground or overhead, until the hand which clutches them be discovered. For this reason he would take the liberty of detailing to the Court the history of the litigation.

Martin then launched into a minute and

deliberate recital of the facts. He dwelt upon the private history of the plaintiff, traced his business career from its beginning up to the day of the transaction with the defendants, described the fruitless efforts of the parties to settle their differences out of Court, and the failure of the attorneys to come to any agreement.

At this point the defendant's attorney interrupted, claiming that none of these facts, however interesting they might be, was to be found in the papers, and that Counsel must be confined to what was therein stated.

Martin admitted that, ordinarily, this would be proper, but in this case he asked for "great latitude for grave reasons." Then, with marked emphasis, he recapitulated all the various points he had detailed and asked the Court to note their important bearing upon what he was about to disclose.

The opposing Counsel shifted uneasily in his chair and shook his head in utter bewilderment, and the Justice leaned forward on his desk.

Then Martin picked up the bill of complaint and began to read it with great deliberation. That seemed to break the spell.

"Mr. Martin, I must ask you to come to your point, please," interrupted the Justice.

"I am coming to it now, Sir."

He again took up the complaint and once more began to read it aloud.

Judge Blagden revolved his chair restlessly from side to side and again interrupted—this time impatiently.

"You have already occupied almost twenty minutes, Mr. Martin. This is not, you know, the Court of Appeals."

"Where your Honour's decision can be reviewed if incorrect? I am aware of that, Sir."

The Magistrate looked sharply at the speaker, who regarded him with a calm, cold glance.

"The Court cannot allow you to consume much more time, Sir. The decision of this motion is largely a matter of discretion——"

"Which your Honour will remember is the better part of valour."

Judge Blagden frowned angrily at the speaker and picked up the green-covered order.

The Court-room was hushed to almost breathless stillness.

"Go on with your argument, Mr. Martin,

but be brief." The words came from behind the paper in the Judge's hand.

Martin instantly sat down.

The Judge stopped reading and peered over the desk.

"Well," he queried, "have you finished?"

"No, Sir, I have not," answered Martin positively.

"Then proceed, Sir."

"When the Court honours me with the courtesy of its attention I will proceed—but not until then."

The answer was a challenge, sharp and decisive.

"I am listening, Sir," retorted Blagden, in a tone of marked annoyance, "and I have been listening much longer than should be necessary. Get to your point at once."

"If the Court is willing to undertake a divided duty," Martin paused until the Judge's eyes met his—"I am unwilling to receive a divided attention."

"The Court has no inclination to hear further suggestions from Counsel on this point."

The Judge took up his pen, dipped it in the ink, and turned to the last page of the green-covered order.

Behind him Martin could hear the cub-reporter tiptoeing to the door.

"Then if the Court will not give me a hearing I demand that it read my brief!"

Martin thundered out the words so fiercely that the audience started perceptibly and the Judge looked up in angry astonishment.

"Sit down, Mr. Martin," he ordered sternly.

"I hand you my brief, Sir," answered Martin, holding out a folded sheet of legal cap, "and request its immediate consideration."

"You may hand it to the clerk, Sir; it will be considered at the proper time."

"I request the Court to read it now."

"The Court will not entertain it at present."

"I demand it as a right!"

"Mr. Martin, you forget yourself."

"You are right, but still I demand that this brief be now read."

Martin leaned over the rail and placed the document upon the Judge's desk.

In the pause that followed, the Magistrate's eyes followed these lines indorsed on the cover of the paper thrust before him:

"*Look out for the green-covered order in your hand. Suspect something fraudulent. Parties*

now in Court watching you. Am talking against time."

Then the stillness of the room was broken by the Justice speaking in a constrained voice:

"The Court will now adjourn for recess. In the meantime, Mr. Martin, I will consider your brief."

It was some days after the crowd had ceased discussing the way Blagden "got called down by Martin" that the latter wrote a short reply to the former's long epistle.

"*Mr. Martin respectfully acknowledges Judge Blagden's letter of the 10th inst., and is gratified to learn that the warning was not wholly uncalled for. The Justice, however, may rest assured that he is under no obligation to Mr. Martin, whose sole concern in the matter was his honour—but not His Honour Charles Blagden.*"

AN ABSTRACT STORY.

WILLIAMS ought to have known that whenever Meyer wanted a title searched he shopped with it until competition eliminated the margin of profit. But whether he knew this or not it was perfectly plain that there was no money in the East Broadway work at the figures he agreed upon. However, year after year the legal arena is gladdened by the advent of certain rosy-cheeked, enthusiastic youths who fancy they can change the instinct of Chatham Square and acquire control of big real estate operators like Meyer, through the simple expedient of doing some of their work for nothing. Moreover, each newcomer thinks he has evolved an entirely novel plan for working up a practice. At first I thought Williams was one of these delightfully optimistic individuals, but subsequent events have demonstrated there was more method in his madness.

Williams was in love with Miss Thornton. Everybody knew it, though, as Parsons said, Miss Thornton didn't seem to know it by

heart. The more fool she, I thought, for Williams was a first-rate fellow and a far better man than that doll-faced, shallow chit had any right to expect. I admit it isn't very gallant to speak of a girl in this way, but I sometimes think a little plain truth about the fair sex would make them more fair. Miss Thornton had prettiness enough of a certain kind, she wore her gowns well and looked the girl of good breeding that she was. But beyond that—well, I never could see what made Williams so desperately in love with her. Therefore when R. Castelez Forbes appeared on the scene, though I sympathised with the discomforted swain, I could not really feel very sorry for him.

Where R. Castelez Forbes came from was more or less of a mystery. Mrs. Thornton told me she met him on the "Teutonic" and that he had been "awfully kind" to Daisy and her during the passage. She had invited him to spend a day or two in the Berkshires, and since then they had seen a good deal of him. To my inquiry as to his business Mrs. Thornton replied that he was "something in the manufacturing line" and she believed "quite a rising young fellow." She was a hopelessly

silly woman. Mr. Thornton was an able man, but too easy going and good-natured to trouble himself about the antecedents of Miss Daisy's callers.

It did not take much to frighten Williams off. He was sensitive as most manly fellows are when in love. But had he possessed far more self-confidence there was quite enough in the situation to have discouraged him. Miss Thornton and Forbes were constantly together, and although no engagement had been announced most people spoke of it as "an understood thing."

Such was the situation when Meyer brought the East Broadway papers to Williams and inquired his fee for searching the title.

Williams glanced at the contract of sale for a moment, turned to the last deed in the Abstract and promptly named a figure so low that even Meyer feared to ask for a reduction, although he did insist on the work being finished in a week. The bargain was closed then and there, and everybody who heard of it cursed Williams for cutting prices to a point where neither he nor anyone else could hope to make money.

But the last item in the East Broadway Ab-

stract would have explained to the initiated why Williams undertook the work at losing rates, and it certainly excused him for beginning his investigation of the title wrong end foremost. This item read as follows:

Reginald C. Forbes, *To* *Beatrice Gordon Forbes.*	*Warranty Deed, F. & C.* *Dated May 1, 1887.* *Ack. May 1, 1887.* *Rec. May 2, 1887.* *Cons. $1.*

Conveys premises under examination.

which meant that, at the date named, one Reginald C. Forbes had transferred the East Broadway property to a woman named Forbes at a nominal price. The contract of sale showed that this same Miss or Mrs. Forbes had agreed to sell the property to Meyer.

Within ten minutes after he had received the papers, Williams was hot upon the trail. Within an hour he had learned all he wished to know.

The Register's Office showed that the deed made by Reginald C. Forbes was recorded at the request of Messrs. Harmon & Headly, and at their offices Williams made his first inquiry.

"Yes, I know Mr. Forbes," replied Mr.

Harmon—"at least, I did know him. He was a client of mine some years ago. Why do you ask?"

Williams exhibited the Abstract and pointed out the deed in question.

"I recall the transaction," continued the old lawyer, after a moment's thought. "Forbes conveyed the property to his wife for one dollar, in consideration of her releasing him from alimony and dower rights.—Yes, she obtained a divorce from him some time in '86 or '87. I think you'll find her agreement on record, but perhaps Forbes didn't record it. I haven't seen him for years, and don't know what's become of him.—Do I remember what name the initial C stood for? Yes, I believe I do. It had a Spanish sound. Something like Castilian. Castelez? Yes—that was it."

Williams thanked Mr. Harmon and went home to work his way through a maze of tangled thoughts to the conclusion that his duty to his neighbour, Miss Thornton, was to love her far better than himself.

His reasoning was something like this: Miss Thornton had been cruelly deceived. She had honoured a scamp by receiving his attention. Perhaps she had even given him her

love. But in any case, humiliation was to be her portion. The blow to her self-esteem she could not escape—but might he not save her pride the lasting sting of even a partial publicity? How could this best be done? To speak to a man of Forbes' character would be a waste of words and give no protection to the girl. Mr. and Mrs. Thornton were in Bermuda, and every moment's delay must add insult to the injury. The girl's chaperone was a foolish hysterical old aunt whose idea of action in emergency would probably begin and end in a telegram. What if he undertook the task himself? He was a rival and she might not believe him? There was no chance for disbelief. If she required proofs—they were at hand. His knowledge of her humiliation would make her hate the sight of his face, and she would never forget or forgive it? He would still have saved her something of bitterness, and for this there was no sacrifice he would not make.

Now I do not propose to argue that Williams took the wisest course even if Mr. and Mrs. Thornton were in Bermuda—I am not prepared to say he was not quixotic—I am ready to admit he was disqualified from acting either

as tale-bearer or guardian, but I do maintain that in taking upon himself the responsibility of putting the girl in possession of the facts, he showed far more moral courage than nine out of ten men would display under similar circumstances.

Had Miss Thornton's mind been built upon broader lines, she would have appreciated the admirable tact with which Williams handled the whole subject and understood the delicacy and deference which disclosed the truth so gradually that she seemed to discover it for herself. But Miss Thornton's mind was somewhat self-centred, and as she heard his story her pretty face showed nothing but its prettiness. She listened to the words of the man, but took no note of his quiet, sympathetic tone. Suddenly the situation dawned upon her. Her cheeks flushed, her hands, which had been clasped behind her shapely head, fell, and she sat there in the half light of the cozy drawing-room gazing before her without seeing the pained and tenderly anxious glance of the man who stood looking down at her.

"Good night, Miss Thornton.—Won't you even say good-bye?"

There was no answer from the girl who,

with elbows on knees and her chin in her hands, stared into the fading fire as though unconscious of his presence.

"Good-bye, then, Miss Thornton, and—and God keep you—dear!"

Now it may be true, as her garrulous old aunt told me, that Miss Thornton was discovered in the drawing-room that night weeping bitterly, but if so, I venture to assert her tears were those of anger—the tears of a spoilt child. However, the point is not what I think, but what Williams thought. He left the Thorntons' house firmly convinced that he had wholly failed in his mission and succeeded only in making the woman he loved hate him. But as he lay awake brooding over the situation the possibility presented itself that the girl might go to Forbes with the story and assert her loyalty by offering to marry him then and there. Such things had happened before. As he thought it over, the possibility became a fear, and the fear a resolution to protect the girl, not only against Forbes, but if necessary against herself. The step he took was theoretically quite as impossible as his original action. But to attempt the impossible is sometimes to achieve it.

Early the next morning Williams looked up Pierce & Butler, the attorneys who had represented Mrs. Forbes in the divorce proceedings, obtained her address, and straightway called upon the lady herself. His interview was short, but at its close he made another extraordinary move. He telegraphed Meyer that the East Broadway business was to be closed within twenty-four hours. Seeing that he had not up to that time made any adequate examination of the title, his action must have seemed somewhat rash to his clerks —especially as he spent most of the intervening hours, not at the Register's office, but in the building of the green lamps on Mulberry Street known as Police Headquarters.

As a result of this, the first callers at Williams' offices on the following morning were afforded singular accommodations. One of them was stationed behind the portières, another was supplied with a seat in a closet, and another was ensconced in a coat-cupboard.

Then Williams sat down at the big table in the Title-closing room and waited for Meyer and the other parties to the purchase and sale of the property. They came promptly.

Meyer arrived first, accompanied by Jacobs,

his confidential clerk, for that prudent Hebrew never did anything without one of his own people being present as a witness; then Mr. Winter, the real estate broker, dropped in, and when finally Mr. August Stein, Attorney-at-law, introduced himself and his client Mrs. Forbes, Williams showed no surprise that Mr. Stein's client did not in any way resemble the Mrs. Forbes he had interviewed only the day before.

Mr. Stein was a nervous, active little man who spoke in the sharp brisk tones of one who has much to do and but little time to do it in.

"Now, Mr. Williams, you are all ready, I hope. I have another appointment at 11.30. You found everything clear? Of course—of course. It isn't everyone who can carry East Broadway property free and clear.—No, indeed, Mrs. Forbes."

The attorney smiled approvingly at his client.

Williams studied the papers in his hand and answered without looking up.

"Everything is completed except the formality of identification. Of course it's all right, but you know I have not had the pleasure of

meeting Mrs. Forbes and I don't think my client has——"

Meyer shook his head.

"Well, don't let's waste time on that," Mr. Stein interrupted, "you know Mr. Winter here, and he will identify Mrs. Forbes to your satisfaction."

Williams glanced inquiringly at the broker whom he had known for a couple of years.

"Do you identify this lady as the owner of this East Broadway property, Mr. Winter?" he asked.

"Surely—surely," was the answer.

"How long have you known her, Mr. Winter?"

"Well, about—I should say—it must be—two years."

"Who introduced you—or how did you meet?"

"Now, Mr. Williams," interrupted Mr. Stein, "this is very interesting, but it's wasting my time. All this should have been attended to before I was summoned. I am a very busy man and you'll have to postpone the whole matter until to-morrow. I really can't wait."

Mr. Stein began buttoning up his coat and reached for his hat.

Williams fumbled among his papers for a moment and drew forth an affidavit.

"Perhaps we can save time with your aid. This is rather a large transaction for me, so I have to go slowly. You will have no objection to signing this affidavit of identification—will you, Mr. Stein?"

The attorney adjusted his glasses.

"It's not necessary, Sir," he remarked, merely glancing at the paper and handing it back.—"It's not at all necessary. There is already sufficient evidence to satisfy any reasonable man and we are not obliged to satisfy you. It was your duty to have convinced yourself before the time of closing."

"I didn't suppose you would have any objection to giving the proof required."

"I don't know that there is any objection, but I've been closing real estate titles all my life and I know my rights and don't intend to be imposed upon."

"I'm not trying to impose upon you, my dear Sir."

"That's just what you are trying to do and I don't propose"—the lawyer rose and began to gather up his papers.

"What is the matter, Mr. Stein? Why are you getting excited?"

"I'm not excited, Sir, but I propose to be treated with decent respect and not like a shyster, and since you insist——"

"But I don't insist——" interrupted Williams. "Sit down, Mr. Stein."

——"Since you insist," persisted the lawyer, walking toward Mr. Meyer, "I make a tender to your client of this deed——" he drew a document from his pocket and handed it to Meyer's clerk.

"Sit down, Mr. Stein," repeated Williams sharply,—"unless you want me to think you are seeking an excuse to break this contract. —Sit down at once, Sir!—Mr. Jacobs—let me look at that deed."

The clerk handed the paper to him and Williams glanced at the signature.

"This is already signed and acknowledged before you as witness and Notary, Mr. Stein. It is perfectly satisfactory. Let us proceed."

The attorney slowly sat down again and then laughed uneasily.

"I had completely forgotten that, Mr. Williams. Your insistence nettled me for the moment and quite put it out of my head.

A tempest in a tea-pot—much ado about nothing, of course!—But rights are rights, you know.— It's instinct with us lawyers to insist upon them, isn't it?"

"Mr. Meyer, kindly hand your check to this lady who will deliver her deed," directed Williams, as he passed the paper to the woman.

Meyer beckoned the young lawyer to the window.

"Is everything all right?" he whispered, as he fumbled in his pocket for the check, "are you sure?"

"Do as I tell you!" was the whispered answer, so sharp and savage that the old man started and his cunning eyes flashed angrily. For a moment he hesitated, gazing earnestly into the calm face of his counsel and then turned suddenly and handed the check to the woman.

"Is that check certified? Let me see it?" cried Stein starting to his feet. The woman handed it to him, at the same time delivering the deed into Meyer's outstretched hand.

"Now what did you do that for?" Stein snapped angrily at his client—"can't you wait——"

He stopped suddenly, for something clicked behind him and he turned just in time to see Winter handcuffed and struggling in the arms of a detective.

With a cry the fellow leaped across the long, narrow table, but as he landed on the other side he found himself facing the muzzle of a revolver pointing at him from the window curtains. Without a word he threw up his hands, and as he did so passed the check into his mouth. The movement did not escape Williams, and like a flash his revolver was between the fellow's eyes.

"Spit it out," he said quietly. "Don't chew it! This revolver is self-cocking! One—two——"

The check came again into evidence.

"Hands down for the bangles—my son," ordered the detective as he stepped toward Stein. As the handcuffs snapped, Williams lowered his weapon and picked up the check. Then as the men moved their prisoners toward the door he turned to the woman.

"Mrs.—Forbes," he began in a low tone, "won't you be good enough to tell me your right name?"

The reply was a paroxysm of tears and sobs.

Williams waited for the outburst to subside and then quietly repeated his question. The answer came brokenly between sobs.

"It'd be—it'd be Mrs. Forbes—if—if—I had my rights!"

Williams stared at the speaker in utter amazement. Was there something more in this case? Who was this woman, anyway, and why did she claim any right to Forbes' name?

"And until you get your rights," he said, "what shall I call you?"

"Mary Halpin — Miss," answered the woman, sullenly.

Williams signalled the waiting detective to stop where he was.

"Well, Mary," he continued, "will you kindly go into my room for a moment?"

The woman rose and passed into the room indicated.

"Miss Halpin," began Williams when the door closed, "I suppose you are well aware what your position is, and that it can't be made much worse. I cannot, of course, promise you any leniency, but if you want to answer a few questions you can regard yourself as speaking confidentially to your Counsel,

and I may possibly be able to give you some advice."

The woman looked at him in silence for a moment and then nodded.

"Are you the Mary Halpin mentioned in the divorce case of *Forbes* vs. *Forbes?*"

"Yes."

Williams studied the face before him, and as he did so, possibilities began to crowd thick and fast upon his mind. He determined to risk something in his next question.

"Mr. Forbes suggested that you impersonate Mrs. Forbes," he asserted boldly.

"How do you know that?" snapped Miss Halpin.

"No matter—I do know it. What reason did he give for wanting you to impersonate his wife?"

The woman buried her face in her hands and Williams let her cry it out.

Here was a nice ending to all his plans for Miss Thornton! If Forbes' connection with this case was known what a splendid newspaper story his courtship of the young society girl would make! All the horrors of publicity would be crowded upon her with crushing force. She might bear humilia-

tion in the sight of her friends, but not before the gaze of the world. If anything was to be done to strangle that journalistic tid-bit it must be done then and there.

"Why did he want you to impersonate his wife?" repeated Williams.

The woman looked at him through her tears.

"He said he had to have the money and—if I did it—he'd have plenty. He said—he said there was no harm—that I was—I was—that I had a right to say I was Mrs. Forbes, and he'd marry me afterwards. But he'll never do it now!" she sobbed, "he'll never do it now!"

"I think he will."

Miss Halpin stopped weeping and stared eagerly at Williams.

"O if I thought that!" she began. "I'd do anything—anything!"

"Listen then. Does Winter or Stein know of Forbes in this matter?"

"No, no."

"Don't they know he's back of you?"

"No."

"All your own game?—You bought them yourself?"

"Yes."

"And you don't want revenge on Forbes?"

"No, no. God forgive me, I love him!"

"Then prove it. You will be taken to the Tombs now. Don't get frightened. Say nothing to anyone. Before night Forbes will get bail for you and you will go at once with him to Dr. Strong's in Jersey City. Forbes has promised to marry you before?"

"Yes."

"So I suppose you wouldn't mind having some sort of hold on him?"

The woman smiled.

"All right, I'll give you some advice. If he hesitates at the altar this time tell him you've been asked to turn State's evidence and remind him that it is difficult for wives to testify against their husbands. That's all. Good-bye."

Williams opened the door and stepped into the outer office.

"You will find your prisoner in my room, Sergeant," he said to the waiting detective.

"Dan," he called to the office boy, as the door closed upon the officer and his charge.

"Ring up Mr. R. Castelez Forbes, and say I want to see him here at once."

Ten minutes later Williams was retained by R. Castelez Forbes, and gave that gentleman some sound advice. The same day toward evening, Mrs. R. C. Forbes, *née* Halpin, and her husband, *alias* R. Castelez Forbes, started very privately for the West, and the City of New York was the richer in forfeited bail.

It is often difficult to differentiate between the accessory to a crime and the counsel defending the criminal. Williams, of course, might plead confidential communications, which certainly cover a multitude of sins. But I prefer to pardon him on the theory that all is fair in love and—well, law is a sort of civil war. Sometimes not even civil.

If this wasn't a true story, I might report that Williams married a fine woman in every way worthy of him, and that Meyer as a reward for that day's good work gave him all his business ever afterwards. But the facts are Williams never married, and Meyer refused to pay his fee. Whereupon Williams

promptly sued him for the money, won the suit and collected every cent due him. That is the real reason why the old scamp respects him nowadays and gives him so much of his business.

BY WAY OF COUNTERCLAIM.

I.

THERE are office buildings still standing in down-town New York where the occupant does not merge his identity with the numerals on his door. But they are very old buildings and the tenants are apt to be as old-fashioned as their surroundings. It was in one of these venerable piles that Clayton Sargent passed his legal apprenticeship, and perhaps this explains some things in his career which are otherwise inexplicable.

When Sargent was first ushered into the offices of Messrs. Harding, Peyton, Merrill and Van Standt he found a suite of plainly furnished rooms connected by green baize doors and surrounded by law books from floor to ceiling. The desks were large and dignified —almost learned in their solidity, as though they had soaked in all the wisdom that had dripped from the pens and all the experience of the pen holders.—The large iron safe built

into the wall of the rear room looked a very monster of mystery from whose cavernous jaws no secrets would ever escape, and in whose keeping confidences were secure as with the Sphinx.

No sound of the typewriter was ever heard in those rooms, though the crackle and snapping of the soft cannel coal in the open fireplaces would occasionally lure someone into betting that "the Ancients had surrendered." No telephone ever tinkled its call inside those doors and no member of the firm ever learned to use that instrument.

Harding, Peyton, Merrill and Van Standt's law papers were a joke in the profession. They were engrossed on parchment-like paper and tied with blue or red silk string, and if a seal was used two bits of ribbon always protruded from its edge. But those who read these documents, though they laughed at the outside, respected the inside, for "the Ancients" had a large practice and knew how to keep it.

"They're harmless old birds," said Elmendorff, whose place Sargent was taking, "but utterly impractical. I've been three years in a live office and I tell you I couldn't stand this. You'll waste your time here. Why, not a

week ago I heard old man Peyton tell a client that he'd better put everything on the altar of compromise and then offer to divide, rather than get into litigation. They're dying of dry rot. You can't get up a scrap here to save your eternal. Just think of this for instance. Last month I began an action for the Staunton Manufacturing Company against Mundel and it was dead open and shut, too. Well, in walks Harding one morning madder than hops. 'How did this get in the office?' says he, waiving the complaint. I told him I advised the plaintiffs that they had a good case. 'Good case!' he roars. 'There's not the slightest justice in the claim—not a scintilla of justice, Sir!' 'But we can win,' I told him, and I showed the old fool where the defendant had slipped up in the wording of his contract and how we had him cold. Well, darn me, if he didn't get hotter under the collar than before, asking me if I thought his firm were hired tricksters and bravos and I don't know what. Finally he bundled all the papers back to the Staunton Company and wrote them they oughtn't to sue. That settled me, and so I told them I'd have to get out into the world again before the moss grew. It's a

pity, too, for they've really got a smooth lot of clients if they only knew how to work them."

So Elmendorff departed, but no one ever heard that he took any of the Ancients' practice with him.

It was this atmosphere which Sargent breathed for three years, and perhaps, as has been said, that may account for some of his many eccentricities and explain, in a measure, his treatment of Fenton.

Fenton had married the daughter of Brayton Garland, one of Mr. Harding's clients, and when his wife sued him for divorce he brought the papers to Sargent.

It was in offices very different from the Ancients' that Fenton found his counsel. They were on the 17th floor of the Titan Building, on lower Broadway, where the draught in the hall steadily sucked a stream of people into elevators, which, with the regularity of trip-hammers, shot them up breathless and dropped them gasping.

There were three law firms in the same suite with Sargent,—four attorneys "on their own hook," a Seamless Mattress Company, an Electric Drying Company and a Collection

Agency. Typewriters clicked in every room, messengers clattered up and down the long hallway, brass gates on the railed-off spaces swung to and fro crashing with every swing, the telephones sung a constant chorus, electric bells buzzed and tinkled, doors banged, papers rustled, voices droned or struck the air in sharp staccato, and yet in the midst of all this restless human energy there were times when Sargent felt lonely. It was not merely that he missed the atmosphere of quiet and study, but the very rush and scramble seemed to generate ideas and actions foreign to the code of professional ethics and dignity which governed the Ancients.

Sometimes the denizens of the Titan Building discussed the matter with him.

"Theoretically your venerable friends are all right," a brilliant, pushing young lawyer told him one day. "The man who lives by maxims in this day and generation will have food for thought, but he'll never earn his salt. We start with the same point of view, but——"

He shrugged his shoulders.

"But someone throws gold-dust in our eyes?" suggested Sargent.

"Bosh!" was the retort. "Don't talk the

cant of the incompetent. The Bar is of a higher average to-day than it ever was before."

But despite the "high average," Sargent often felt himself a solitary outsider looking on at the mad clamour and pitiless pursuit and wondering if it was worth all it seemed to cost. A defect in early education—this pausing to think—for philosophers on lower Broadway are apt to have but brief careers.

"There's nothing in the case," Fenton told his counsel, who sat gazing out of the window at the tiny human ants crawling in and out of the stone heaps in the street below.

Sargent looked narrowly at his client, but the side face told him nothing, so he made no comment and Fenton continued;

"I don't know why she wants to drag us into court. I suppose some long-whiskered tabby has been telling her I ought to stay home every night. Say, Sargent, isn't there some way of bringing her to her senses?"

The speaker turned from the window with a gesture of impatience, and Sargent studied the handsome though somewhat boyish face. He knew Fenton for an easy-going fellow, but no fool. He was a young man who had earned his money by his own brains, acquiring all

the self-confidence and other characteristics, good and bad, which accompany achievement. There was strength of character in his face, and a certain firmness of purpose about the mouth that suggested something which the clear blue eyes contradicted.

"You say there is nothing in the case," Sargent answered. "Why do you suppose she brings suit? I don't know Mrs. Fenton, of course, but women are not anxious as a rule to get themselves into court. Have you tried to see her and obtain an explanation?"

"Lord, no! If you knew her you'd see how useless it would be. There's no way out of this except by showing her we mean business. She's nearly killed all the affection I ever had for her by this nonsense, but I want it stopped—and stopped right now."

The suggestive lines of Fenton's mouth were strongly marked as he snapped out the last words.

"If you no longer love your wife,—am I to understand that you want a divorce? Have you anything to set up by way of counterclaim?"

"By way of counterclaim? No.—Yes, I have. I want the children."

Sargent smiled. "That's hardly a counterclaim," he answered.

"Well, it's counterclaim enough for me.—That's just the thing. You push that and we'll see about the rest afterwards. If she wants to go into court she'll have to go without the children."

Fenton's mouth was firmly set, and its lines were almost grim. The boyish look had faded, and without it his features developed coarseness.

Sargent hesitated.

"Mr. Fenton," he said at last, "I don't like these cases, and when a man dislikes his work, you know, he's not apt to do it well. I think you would do better to retain other counsel."

"Now that's all nonsense, Sargent. You are just the man for me. I don't want one of those advertising roarers who'll have us in every paper. I want this thing stopped. You'll only have to apply for the children and that'll end it. There are plenty of legal ruffians to be had. I have chosen you because you are a gentleman and know how this business should be handled."

There was no note of flattery in Fenton's tone.

"But, Mr. Fenton, admitting there is nothing in the case, the custody of the children is still a matter resting wholly in the discretion of the Court and you may not succeed. Mr. Harding is an excellent lawyer and will doubtless make a good fight. You remember, of course, that I was in his office some years ago?"

Fenton looked sharply at his counsel and his eyes narrowed slightly as he answered.

"Well, that doesn't make any difference, does it? It ought to be all the better. You must know all the old chap's tricks."

There was a suggestion of cunning about the man which completely transformed him for a moment. His watchful eyes, however, read the doubt in Sargent's face and bespoke a charming sincerity as he added:

"Why, of course, I knew you were brought up with "the Ancients," Sargent. I was only joking. But that is merely another reason why you are best fitted to undertake this case. If it were the ordinary divorce dirt I wouldn't ask you to plough it up. But it's not. Mr. Harding knows you and you will be able to approach him easily. Mrs. Fenton has been poorly advised, I think, but the

mischief's not yet wholly done. Make your 'motion' or whatever you call it, and then you'll find the rest is easy. I know you can handle the matter as few men could. I've wanted to give you some business for a long time and I'm sorry to begin with this. However, it will not be the last, you know."

Sargent had built up a fair practice since he left "the Ancients," but this was the first time he had ever been opposed to them. He confessed to himself that he did not like it.

Fenton was not wholly convincing, but if he did not take up this case someone else would. If he was better than his profession it was high time to retire from it. Then, too, Mr. Harding was growing old, and doubtless the woman deceived by silly stories had deceived him. Very probably, as Fenton said, the first aggressive move would settle the whole affair. What fools women were to listen to every Old Wife who came along with idle tittle-tattle seeking recruits for the great Army of the Misunderstood! Fenton's business was worth having, and if this matter went well there was no knowing where it might lead. Moreover all the essential facts were in the defendant's

favour, and as Sargent skilfully set them forth in his "moving papers" he experienced that subtle influence, known to every lawyer, which can turn the most judicial counsel into a partisan, and make the silliest quarrel a matter of deadly moment between strangers to its cause.

II.

Any Court with jurisdiction in divorce proceedings draws an audience peculiar to itself.

Every Court Room has, of course, its individual devotees. For instance "Dutch Pete" is accustomed to the corner bench in Part XV. and would not change it for any other sleeping quarters, and even the migratory loafers seem to know and respect old "Lawyer" Brady's seat in Trial Term Part XX.

But with divorce matters on the calendar, Special Term Part I. appeals to a particular class. One can recognise its women out in the Rotunda long before they turn toward the haven, and one can almost feel its moist and clammy type of man.

To see the women with their hard faces well nigh intelligent with curiosity—their long

necks and ears turned to catch each salacious morsel—is a sight to sicken every man with memory of a mother. To watch the flabby-jowled, pimply persons of the masculine gender, their drooling mouths fashioned to a grin, and their perspiring hands clutching the soiled and soiling newspapers, is to understand the cynic who protested that "the more he saw of men the better he liked dogs."

"Mr. Harding," said the Justice, as the arguments in *Fenton* vs. *Fenton* closed, "it seems to me the defendant has made out a reasonable case. As you have said, this matter rests wholly in the discretion of the Court, and although we hold the parents joint and equal guardians of their children and do not follow the old world rule that a father has a superior claim to the possession of his offspring, yet, as it seems to me, this is a case where that rule should apply. Mrs. Fenton has left her husband's house without just cause, as he alleges. She makes no claim for his support, and the complaint, as has been shown, is deficient in its detail. If I am wrong, a trial will set the matter right. In the meantime I award the possession of the children to the father. If you can agree with Mr. Sargent upon the

terms of the order, I will make such provision for occasional visits of the mother as justice may——"

A scraping of chairs and rustling of skirts drowned the closing words of the Judge and Sargent turned to see a woman entering the Court Room with two little children at her side. She walked directly toward the counsel's table, and the restless eye-lashes of the unsexed "painted" her in rapid sweeping glances, now up—now down—and the fat-paunched leerers followed her with looks scarcely less offensive.

"My child, you should not have come here," whispered Mr. Harding, as he rose and offered her his chair.

She was scarcely more than a girl, but her tall graceful figure bespoke a quiet dignity, and the grey eyes with their steady gaze told of developed character.

Sargent glanced at his client. Fenton must have seen the doubt expressed in the lawyer's face, for he spoke up sharply.

"Let's finish this business, Sargent. I suppose I can take the children now."

But his counsel did not answer, and Fenton, growing impatient, addressed the Court.

"Your Honour, these are my children—I suppose I may take them now?"

The Judge, busy with the signing of papers, frowned but took no other notice of the questioner.

Mrs. Fenton laid her hand on Mr. Harding's arm and almost shook it as she asked,

"What does he mean? What—does—he—mean?"

How the necks stretched and the ears strained to catch the counsel's answer!

But he whispered to the woman at his side, who, with her arms thrown about the children, seemed oblivious of the eyes glutting themselves upon her.

"Impossible!" she kept repeating, "it is impossible!"

The old lawyer shook his head gravely and glanced uneasily at the defendant. Again he whispered to the young wife, speaking rapidly and stopping her interruptions with the pressure of his hand upon her arm, till at length she burst out in a frightened undertone,

"But I tell you it is impossible! It *shall* not be done!"

Sargent rose and crossed to where the two were talking.

"Pardon me for interrupting," he said to Mr. Harding, "but I apprehend this decision is a surprise to Mrs. Fenton. Can we not arrange that the matter shall go no further?"

"Gladly, Sargent, but how?"

"I am authorised by my client to withdraw this motion if Mrs. Fenton will discontinue her case."

Mr. Harding looked at the fair face turned toward him.

"You understand," he said. "This is Mr. Sargent,—your husband's attorney."

With a gesture, half terror and half disdain, the young mother drew the children closer to her side and Sargent felt the hot blood flying to his cheeks. But she seemed only conscious of Mr. Harding's presence as she answered him.

"Does he dare offer to bribe me with my own children? It is monstrous!"

Mr. Harding glanced sadly at the younger lawyer as the latter turned again to his impatient client.

"She won't consent?" muttered Fenton. "Nonsense! You've worked the smooth business right enough, Sargent, but we've won the motion and done the decent. Now knock

things about. You've got to scare her half out of her wits——"

Sargent's face flushed.

"I think you are mistaking her," he said. "I know you are mistaking me."

"Good Lord—man, don't get mussy just when everything's in our own hands. We've got to push it through now or never. Why—damn it," he whispered fiercely, "don't you understand we can't defend this case? We've got to bluff her out!"

The word "we" stung Sargent as though someone had slapped his face. Yet he was associated with this man. Associated for what purpose—to do what? His client's angry outburst had made it plain enough.

Fenton saw the glance of scorn in his lawyer's eyes.

"I'll be my own attorney then—and a damn sight better one," he muttered and turned toward the group at the other end of the table.

"Well, now, let's have the children—Come, kids."

He rose and took a step forward. As he did so his wife sprang to her feet and faced him. He stopped with an uneasy laugh before the splendid figure of the woman drawn up to

her full height, and met her measured look of courage and contempt. Then he turned again toward his counsel, speaking in an ugly undertone.

"See here, Sargent, I'm not going to make a fool of myself before all these people. Get the officers to bring the children out to the carriage."

But Sargent did not reply, and for a moment there was dead silence in the Court Room.

Fenton stooped toward his counsel.

"What do you think you're paid for?" he whispered menacingly.

What was he paid for? That was plain talk—that made the truth stand out clearly! He was the hireling of this man—not his associate. He was hired to do contemptible work and he had done it,—was doing it. No wonder his employer stood ready with insult to show how he despised his creature. It was perfectly safe. An officer of the Court was bound by professional duty and gagged by confidential communications. He must sit still and see this outrage on Justice perpetrated. Even aid in it. And for what? For money. How far had he sold himself —how much of his manhood was included

in the purchase? He could retire from the case? Yes, after the day's dirty work was finished and the wrong could not be righted.

If he raised his hand to stop this thing, how many lawyers in the City would uphold him? Not many in the Titan Building. It was easy to foreshadow the construction which would be placed upon his conduct. He could almost hear the fierce denunciation. To defend himself he would have to violate professional secrecy still further. True, there were those who would understand—men to whom their calling was and always would be "the honourable profession of the law"—men who would never permit the Law's mantle of dignity to become a cloak for the vicious. But the others—"the high average"? Had he the courage to face their verdict?

Perspiration poured down Sargent's face and his hand shook with suppressed wrath as Fenton rose and again addressed the Court.

"I presume your Honour will enforce your order? I don't wish to make a scene."

The Justice looked inquiringly at the lawyers, but neither of them made any sign.

"Madam," he said at last, "I have awarded

your husband the custody of his children pending this action. You will kindly put no obstacle in the way of the execution of my order."

The chairs of the leerers grated on the floor with eagerness, and the skirts of the shameless shivered with delicious tremors.

Ah—this was worth coming for! A woman's tenderest feelings were to be exposed and crushed. Privacy was to be invaded—delicacy was to be unveiled—the sacred was to be handled. Ah—this well repaid the waiting!

Mrs. Fenton flushed as the Judge addressed her, and then grew ashy pale as she answered.

"You have no right, no man has any right, to dispose of my children. They shall not leave me! I will not permit it!"

The Judge glanced at the bulging eyes and gaping mouths of the audience and frowned angrily.

"Officer," he said sharply, "take those children and deliver them to the defendant."

There are moments when the Bar does not envy the Bench.

As the Judge's words reached her, the young mother leaped to her feet and swept the children behind her. Then she backed toward the

wall and crouched there like some magnificent wild thing, trembling with that mingling of terror and courage which warns the fiercest beast to caution.

"Let him," she panted, hoarsely, "let him come—come and take them if—if he dare!"

Mr. Harding rose and stepped toward the woman, laying his hand gently upon her arm. She gazed at him for an instant with no recognition in her eyes, then flung her arms about his neck and laughed the hideous shuddering laughter of hysteria.

Here was entertainment indeed! A red-letter day in the annals of the audience! To-morrow the Court Room would be packed with expectants—all the floating population of the Rotunda would be on hand.

The Judge seemed to think of this.

"Remove that woman!" he ordered.

A court officer stepped forward, and at the same time Fenton moved toward the children.

Then Sargent's voice broke the stillness of the Court.

"If your Honour please, I wish to withdraw the motion in this case."

There was a moment of absolute, breathless silence.

Then Fenton sprang to his feet.

"Withdraw?" he almost shouted. "What do you mean? This is my case. It's been decided in my favour. I won't permit it!"

Sargent only addressed the Court as he answered,

"Nevertheless, I withdraw the motion."

The Justice looked steadily at the lawyer's face, and his gaze was not without a trace of approval.

"I must warn you, Counsellor," he said at length, "that this is very unusual. It is a most serious matter."

"I will take all responsibility, your Honour."

"Very well, Mr. Sargent. You consent, I presume, Mr. Harding? I am not sure that I have the power, but if not, the error can be corrected by appeal. Mark the motion, 'withdrawn.'"

"This is treachery!" Fenton shouted at his lawyer. "I'll have you disbarred, Sir! You'll lose every client you've got——"

"But I'll keep my self-respect," answered Sargent, in a whisper.

"I'll have you disbarred, Sir!—I'll ruin you

utterly. Your Honour, he's conspired with the other side—he used to be in their office. I can prove——"

"Clear the Court Room!" thundered the Justice.

* * *

Outside in the Rotunda the audience placed Sargent on trial and straightway condemned him. In legal circles his conduct was denounced, eulogised, and on the whole deplored.

But the Court of Conscience (hear the cynic mutter "Court of last resort!") held him guiltless, and from its judgment there is no appeal.

IN THE NAME OF THE PEOPLE.

VALENTINE WILLARD was not a bad fellow at heart, although Gordon will never admit it. But Gordon is a crank who carries his professional enmity into private life.

Their trouble began about an "affidavit of merits."

Gordon had a case in which he was about to enter judgment, when Willard blocked him off with an extension obtained from the Court by means of an affidavit, in which he swore that "his client had fully and fairly stated the matter to him, and from that statement he verily believed the defendant had a good and substantial defence to the action upon the merits."

This, of course, was utter fiction. There was no thought of a defence. But delay defeats, and later Willard withdrew, allowing Gordon to take the twenty-fifth instead of the first judgment against his man.

The same thing is done every day of practice in the City of New York. Lawyers who

are Officers of the Court prostitute the Court with cheerful zeal—men with a high sense of self-respect in their private lives, demean themselves beyond expression in their professional careers—gentlemen who would not stoop to the slightest equivocation up-town, perjure themselves for money down-town, or teach their clerks to do it for them. It is not a pretty practice, but Gordon ought to have known the custom. However, being young at that time, it still shocked him. To-day he says it only fills him with disgust. But he was just as much of a crank then as he is now, so he took Willard's affidavit before the Grievance Committee of the Bar Association.

He might have seen the smile on the faces of his auditors as he told his story, had he not been blinded by zeal. However the Chairman was grave and judicial enough when he announced it was not the province of the Committee to take up the quarrels of counsel, and that they did not propose to investigate light accusations of perjury.

Indeed, the Chairman was so very judicial, and his speech so well delivered, that he might have been suspected of having said something of the same sort before under similar circum-

stances. But Gordon, crank that he was, thought of nothing but his point, and stoutly maintained that false swearing was being practised every day by lawyers, great and small—that tricks and treachery were personal matters reflecting on but not involving the profession as a whole, while licensed perjury was a travesty of law, striking at the very foundations of Justice. So he went on, boiling over with intensity and utterly innocent of tact.

But when the Chairman stopped him and said something about "seeking aid in legislative action," or "going before a Grand Jury," Gordon, young as he was, looked straight into the speaker's eyes and drank in experience, if not wisdom, from their glance.

Later on Willard's client quarrelled with his counsel, and put into Gordon's hands the very proofs he needed. But the Grievance Committee never saw them, for Gordon locked the papers in his safe and spoke no word.

But that did not close the episode.

It was, however, the beginning of the end as far as Gordon and Willard were concerned.

More than a year passed before the two men met again. Willard had in the meantime been appointed an Assistant District Attorney, and

practised only in the Criminal Courts. Their encounter was entirely a matter of accident, though Gordon doesn't think so. Nevertheless, the facts are that Gordon chanced to wander into General Sessions while waiting for some papers, and happened to find his *bête-noir* prosecuting a case of burglary, and it was merely a matter of habit that caused him to study the prisoner as closely as he did.

The man's face was gentle, and almost expressionless in its vague wonder at the scene before him. Something had its grip on him—just what he did not seem to know—but something monstrous and merciless in its mechanism, and something was being said about him—just what he did not appear to comprehend.

Gordon watched the listless figure, and the weary droop of the head, and interpreted for himself.

Perhaps the poor wretch had struggled when arrested, but without avail—had stormed and protested to the sergeant at the police station, with no result—had denied and explained to the Magistrate at the hearing, but to no end. The Law—a hideous Something—resistless in its power, relentless in its purpose, wanted him. These men—the one on the Bench, the

one behind the rail, those others in uniform—wished him out of the way. Perhaps he had concluded he could best propitiate them by giving as little trouble as possible. So he sat there inert and silent, fascinated into non-resistance, watching the doors of his prison open somewhat as a rabbit must watch the widening jaws of a snake.

It is impossible to comprehend the feeling without experiencing it, but Gordon was a lonely sort of man, who sometimes felt himself apart from, instead of a part of, the universe, and so he understood.

Mr. Assistant District Attorney Willard was presenting his case ably, handling his points with so much care that Gordon asked the policeman sitting beside him if the trial was of any importance.

"Importance? Well, I should say so! Don't you see the Chief sitting up near the rail?"

Gordon glanced in the direction indicated and observed the Chief of Police, note book in hand, watching every move of the District Attorney.

"Who is he?" he asked, nodding toward the prisoner.

"Why the larrup says his name is Winter —and don't he look innocent? Well, he's really Red Farrell, a crook we've been after for years. But there's nothin' much gets by us, I guess.—Eh?"

But Gordon was studying the prisoner again and did not respond.

Winter? Where had he heard that name? Why, of course, Winter was the married name of his old nurse, who had been in his father's family for thirty years. But who was this man?

"Mr. Duncan——"

Gordon turned as he heard the whisper behind him and found himself face to face with the very woman of whom he had been thinking.

"Why, Margaret, what are you doing here?"

"O, Mr. Duncan—it's him."

"Who?"

"Jack—there—my son." She glanced toward the prisoner.

Gordon motioned toward the door and they passed out together into the Rotunda.

"Oh, Mr. Duncan, can you save him?—You will, won't you, dearie? He's my only boy! Indeed, indeed, he's not guilty for all he's been

a wild lad at times. O, why do they say he's Red Farrell, or some such man ? O please tell them, Mr. Duncan."

And then the story came out with a burst of tears which the Rotunda saw and heard without any emotion whatsoever. It has witnessed so many tears—that Rotunda—heard so many, many stories.

Before Court adjourned Gordon found himself committed to aid in the defence of John Winter—his first criminal case. By evening he was working enthusiastically, confident in the innocence of his client.

Winter was a stupid fellow and impossible as a witness, but this only further convinced his new counsel, who believed a bad witness could not be a good liar. But the defence had been poorly prepared at the hands of the attorney assigned by the Court. Proper witnesses had not been subpœnaed—details had been neglected, while the prosecution seemed unusually keen. This last fact worried and puzzled Gordon more than all the others, and finally started him out on a tour of personal investigation.

When he returned he had learned enough to make him admit that with the time at his

command there was small hope of clearing his man from the closely pressed charge.

One chance, however, remained—to see the Assistant District Attorney and obtain an adjournment. But to beg a favour from that source was gall and wormwood to Gordon. Moreover, what he had discovered was not calculated to cool his hot head or make him more diplomatic. So the mission did not promise well, and he had about determined not to attempt it, when the look of despair and mute appeal in Margaret's face made him reconsider, and drove him late at night to visit a man he would have gone miles to avoid.

The Assistant District Attorney was the opposite of Gordon in every way—smooth, politic, even tempered, and ambitious to drop the word "Assistant" from his title. This, it was rumoured, he would do at the next election. In an encounter between these two men it was not difficult to foresee with whom would rest the advantage.

Willard welcomed Gordon to his study and opened with easy commonplaces. But Gordon, hopelessly fanatic and stiff-necked in his honesty, disdained the aid of conventions and pushed directly to his point.

"Mr. Willard, you are prosecuting a young man—John Winter by name——"

"Ah yes, I thought I saw you at the trial to-day, but didn't know you practised in the Criminal Courts. Yes,—John Winter, alias Red Farrell."

"I do not think so and that is why I am here. This young man is the son of Margaret Winter, an old family servant of ours on whose word I would stake my life. I have examined the prisoner and some of the witnesses, and am sure a mistake is being made and that I can prove the man's innocence."

"Well, I shall at least have the satisfaction of being beaten by a worthy adversary. But you didn't come here merely to throw down the gauntlet, Mr. Gordon."

The District Attorney smiled inquiringly at his visitor.

"No, Sir. I want you to withdraw a juror in this case and consent to a mistrial. Meanwhile we can both make further investigations and the cause of Justice will not suffer."

If the speaker had asked for his head, Willard's face could not have expressed more absolute amazement. He stared in silence for a

moment—then checked a sudden inclination to laugh and answered calmly enough:

"Of course you have not practised very extensively in the Criminal Courts, Mr. Gordon, or you would know that what you ask is really absurd."

The expression was unfortunate and Gordon blazed up instantly.

"I see nothing absurd about it, Sir. I ask you for time to ascertain this man's guilt or his innocence which cannot now be properly determined.—Do you mind telling me just why this seems absurd to the District Attorney?"

The speaker's tone and manner would have nettled a man less on his guard, but Willard only laughed pleasantly as he answered:

"The District Attorney's office is satisfied to proceed, and you will admit the case must be fairly strong when we are undaunted by the presence of distinguished counsel."

"This is no matter for jests, Mr. Willard. Do you consider that the duty of the District Attorney is to convict as many persons as possible—to win as many cases as you can?"

"O come, come, Mr. Gordon, we are not here to discuss ethical questions."

"Mr. Willard, I am not here to be trifled

with or side-tracked. Will you tell me what investigations you have made to ascertain if this man is innocent or not?"

The District Attorney leaned back wearily in his chair and gazed at the earnest face confronting him. Then he lazily reached for a cigarette.

"I am trying to keep my temper and be polite," he replied, "but you surely do not expect me to detail my case to my adversary?"

"Your case? Is that how you term the solemn duty you are charged with? Does the District Attorney condescend to tricks—does he hope to make convictions by surprise?"

Willard struck a match angrily, but he applied it to the cigarette in his mouth before he answered:

"Red Farrell must pay you a good fee, Mr. Gordon, to make this worth your while."

For a moment Gordon was the cooler man of the two.

"Is it not the duty of the District Attorney to ascertain the truth?" he asked as though the other had not spoken. "Are you, a public officer, interested in withholding any part of the truth? Have you anything to conceal?"

"Mr. Gordon, I do not propose to listen to these insinuations——"

"Let us cease bantering then, Mr. Willard. I am ready to talk plainly. Must I?"

"You must indeed, unless you wish me to interpret for myself."

He flicked the ashes from his cigarette and glanced with a bored expression toward the clock.

But Gordon did not speak until Willard's eyes met his again.

"Very well then. I will see that you understand. The police have been hunting a man called Red Farrell, but they have not been successful. The Chief has blamed the Captains —the Captains the detectives, and the papers have ridiculed them all. The police of other cities too have twitted them about it. Suddenly this young man is arrested under suspicious circumstances. No one seems particularly interested in him or knows much about him. Why shouldn't he be Red Farrell? He is Red Farrell. Do you understand me?"

"I hear you making a very nasty and uncalled-for charge against the police of this City and——"

"One that you well know has both foun-

dation and precedent. You know the men who compose the force. So do I. They have the same pride and ambition and morals that other men have. No more and no less. They discover Red Farrell and remove a reproach. Suppose Winter isn't Farrell—well, he's probably guilty anyhow. *They want to win cases too!*"

"Mr. Gordon, you have said about enough——"

"To persuade you that this is a proper case for further investigation?"

"No, Sir, and I will tell you right now that this case will not be adjourned for one hour!"

Gordon rose to his feet and faced his opponent, wording his question slowly and with deliberate emphasis.

"Of course you personally have no special interest in convicting this particular prisoner?"

Willard sprang from his seat and angrily tossed his cigarette into the fire.

"Mr. Gordon, take care you do not go too far."

"Are you not especially anxious to win this case?"

"I am prosecuting, Sir, in the name of the People."

"In the name of the People!"

Gordon laughed the words out with stinging scorn, and the Attorneys faced one another with a rage that in men of less refinement would have set them at each other's throats. But the grapple was as deadly and the purpose as grim as though the struggle had been physical. There was no possible chance for argument now and Gordon flung off all restraint as he poured forth his torrent of contempt.

"In the name of the People! What people gave you a commission to tamper with the liberty of the meanest thing alive? What people privileged you to prosecute an innocent man—for you know he is innocent—I have seen it in every false smirk of your face ever since I entered this room. And to prosecute him for what? For your own personal advancement—to win a case for your client. Do you want me to tell you who your client is——"

"I want you to understand that you can't blackmail me, Sir!"

"Blackmail you? By the Lord Harry, you

shall hear the truth from one man if you never hear it again. Don't lay a hand on me or I'll break you like this pencil! Blackmail you? To-night you've got to know that another man knows you through and through. To-night you have to go unmasked. Are you afraid of hearing me say who your client is? Are you afraid of having me name the politicians whose orders you execute and whose nod is your law? You have been ordered by the police to win this case. This *case* indeed! And you, the Assistant District Attorney, in the name of the People, will win it by fair means or foul. You have never investigated one fact, or asked one question, calculated to bring out the truth, but by trick and wile you stoop to serve your master's purpose. And do you think I do not know why? You poor fool! Every honest man knows who cares to follow your dirty tracks, and the knaves whose gifts you buy know whom they sell to and for what. But remember this, the day you run for District Attorney will be the day I take these papers where they will do the most good, and we will see if the People want a perjurer to prosecute in their name!"

Gordon tore from his pocket the "affidavit

of merits," with the proofs of its falsity, and slapped them down upon the desk.

Willard glanced at the papers and then at his adversary. His answer was almost a whisper—hard and rasping.

"Gordon, I will convict your man if I never win another case in my life!"

"By God—you dare not!"

The study door slammed as with a threat—'You dare not!'

The front door echoed 'You dare not!' as a challenge.

When Willard looked up again the clock was striking three. But it chimed 'You dare not,' in the even tone of statement.

The second day of John Winter's trial brought a series of reverses for the prosecution, and the prisoner was acquitted, to the utter disgust of the police.

About that time the Assistant District Attorney's career suffered one of those sudden blights, the origin of which is the mystery of a city's politics.

A few years after this Red Farrell was really found and convicted, but then Willard had been so long on the political shelf that

those who put him there had completely forgotten his existence.

But I believe they were right in accusing him of bungling that case. Of course, he may have been intimidated, but the chances are he could never have been convicted of perjury. The crime has almost the sanction of custom. This he must have known. So why not credit him with worthy motives and say he was a good fellow at heart, even though Gordon, Indian-hater that he is, will never admit it?

THE LATEST DECISION.

THERE was a black-edged card on the bulletin board. That means a vacancy in the club membership until some one of the waiting-list steps into the dead man's shoes.

The card bore the inscription:

JOHN FURMAN DELAFIELD.
December 30, 1898.

Jack Delafield had been no chum of mine, but I never thought the Governors did right by him, and I was glad to remember my partisanship in the days when his mere name was sufficient to provoke instant debate among the Thespians. I liked him then for some of the enemies he made, and perhaps my enthusiasm was always more for the cause than the man. However, I was sorry—very sorry, to see his name on that card, and I said as much to the group of men among whom I took my accustomed seat in the club corner.

"Well, I'm sorry he's gone, but I never knew him at all," remarked Chandler.

'I never met him either," said Paddock.

Hepburn had never heard of him, neither had Joline, and Grafton knew him not.

I looked at the speakers. Was it possible I was as old as they seemed to intimate?

"Delafield hasn't been regular at the club for many a long day," I said—clinging to a straw. "I doubt if he's been inside the door for five years—so it isn't very strange you haven't met. But you all know of him. He was the Delafield of the Hawkins-Delafield affair."

The blank look on the faces of my companions surprised and, I admit, shocked me. It was ridiculous, but Osborne's laugh grated, and I welcomed Chandler's interrupting question, even though it pronounced sentence on my senility.

"Yes—I'll tell you the story," I answered, "but after retailing to members of this club something that was absolutely discussed to death here, and labelling it a 'story,' I shall never address you again except as 'my sons.'"

"Father, may I have a cigar?" asked Chandler, as he rang the bell.

I signed the check.

"Jack Delafield was a man of good family,"

I began, " but to vary the conventional opening and adhere to the truth, I may as well say his parents were honest though not poor. He was a fellow of many talents, so many, in fact, that he became known as a 'versatile genius.' He never attained a more notable title. Not that he hid his talents under a napkin. He sealed their fate in a bottle—in many bottles. I'm afraid we didn't do much to help him here. Everyone thought he'd come out all right in the long run, and when he lost his money and settled down seriously to the law, his friends supposed his wild oats had all been sown. But somebody left him more money, and back he went to literature and painting, and music. The old set welcomed him with open arms, but didn't help him to write, or paint or practise. Then Miss —well, I won't say what girl—put him on probation, and he wrote two really notable stories before the probation was declared unsatisfactory. After that he never seemed to care much about anything except art, and he took that out in dreaming of the things he didn't do. Yet no one seemed to blame him much, perhaps everybody liked him too well, and nobody loved him enough. Anyway he

went from bad to worse, until 'poor fellow' used to be coupled with his name, and Delafield in various states of intoxication became a familiar sight in these rooms.

"He must have been a handsome fellow before drink coarsened and aged him, for he was still good looking, though prematurely old, when I first met him, shortly after my election to the club. About that time Galloway gave his bachelor dinner in the private dining-room upstairs. I attended as one of the ushers, and there were perhaps a dozen other guests—among them Delafield. The dinner was as most such dinners are, a toast for every sentiment, and sentiments galore, so when we adjourned to the grill-room for coffee, Jack tipped his chair against the wall over there and fell asleep. We sat about the centre-table smoking, and testing some remarkable port sent to grace the occasion.

"I don't recall what led up to the conversation, but I do remember that the general subject was women, and that Hawkins coupled the name of—well, a decent girl, with a remark so coarse that most of us stopped talking, though two or three laughed. It was a speech such as I suppose you've all heard

made at some time or another, and which always seems to receive the tribute of a laugh before being buried in the silence of self-respecting men.

"It was in the hush following this remark that Delafield's chair fell sideways to the floor with a crash, making us start to our feet and setting the glasses tinkling. The roar of mirth that burst out at this mishap ceased instantly, as we saw Delafield's ghastly face, down which the blood was running from a deep gash in his forehead.

"Someone hurried forward, offering help, but Delafield pushed him aside, staggered to his feet, closed the door and leaned his back against it—his arms spread out as though to bar an exit.

"We stood around the table in silence, watching him. Two or three minutes must have passed before he spoke.

"'Is—Mi—Miss Smith en—gaged?'

"The question was asked slowly in a low tone, as though the man was struggling to control voice and speech.

"We looked at one another and at the swaying figure before the door, but no one answered.

"'Is—Miss Smith's—father here?'

"No answer.

"'Is Miss Smith's brother here?'

"It was difficult to see all the faces in the smoky half-light of the lamps, but those about me showed a pallor of apprehension.

"Was Miss Smith's uncle there—or her guardian—or her cousin? Was anybody present who had a claim to represent her? No?

"The broadening trickle of blood on Delafield's face dripped down the white shirt front, but no one stirred or spoke.

"'Then I wa—want to say'—here he lurched forward from the door and stood rocking slightly at the end of the table. 'I want to say that I—I'm drunk an'—and I know it. But I'm—I'm a gentleman. An'—and yonder's nothing but a cur—a low-lived cur—drunk or sober. You—you've heard him—now see him!'

"Something flashed before his eyes, and then a wine-glass struck Hawkins square on the forehead, scattering in fragments over the table.

"And Hawkins stood there, his face dripping with the wine, and his clothes showing great stains of it—stood there without mov-

ing as Delafield leaned over the table and laughed—

"'If—if you only had as much re—red blood in you—you—you——'

"And then he fell fainting across the table, crashing among the bottles.

"The Governing Board expelled Delafield, but the club sentiment was so strongly in his favour that they afterward rescinded the expulsion, and suspended him for three years. But that never satisfied his friends."

"I should think not, indeed," exclaimed Joline, "it was outrageous! I've always claimed you can't be sure a man's a thorough gentleman until you've seen him drunk. And that proves it."

"Oh, the many times I've heard your theory debated in this place! The walls fairly ached with listening to the discussions."

"Well, I'm sorry I didn't know the chap," interrupted Chandler. "Let's drink to his memory!"

He struck the bell as he spoke. As the waiter filled the orders, I noticed one of the older members on the stairs bending close to the bulletin board and peering through his glasses at the notice of John Delafield's death.

Chandler touched me on the shoulder.

"To the memory of a gentleman—Jack Delafield!" he cried. We rose to the toast.

The old man on the stairs turned quickly and saw the lifted glasses. His face was a study.

"Hush!" I whispered, "that's Hawkins."

THE DISTANT DRUM.

" Some for the Glories of this World ; and some
Sigh for the Prophet's Paradise to come ;
Ah, take the Cash and let the Credit go,
Nor heed the rumble of a distant Drum ! "

—*Rubáiyát.*

I.

ALMOST everyone knows Governor Tilden's residence in Gramercy Park, but those who don't know it as such, may remember a big house with bas-reliefs over the door, on the south side of that quiet square. However, the house has nothing to do with this story, except that it was upon its door-steps I encountered Sandy McWhiffle, on my way to the club. I use the word " encountered " advisedly, for Sandy, finding the bottom step somewhat narrow for a couch, had allowed one of his legs the freedom of the sidewalk, and it was over this protruding member that I stumbled into the arms of the gentleman slumbering on the Governor's steps.

It was late at night—and Sandy protested.

His opening remarks served to advise me that the cop couldn't get around the Square again for at least fifteen minutes—that he (Sandy) hadn't slept five, and that I'd destroyed his night's rest. It did seem unfair.—I certainly could have discovered his leg if I'd looked sharp, and twenty minutes' rest is—well, it's twenty minutes' heaven when you need it—and Sandy needed it—there was no question about that. But the advent of the cop making slumber inexpedient, if not impracticable for the time being, we adjourned, at my suggestion, to the all-night restaurant on Fourth Avenue, near Twenty-fifth Street. You know food is a fair substitute for sleep at times, especially after one has experimented considerably with sleep as a substitute for food. Sandy had made quite thorough investigations along that line. But experiments were difficult, what with the grey Bastinado Brigade in the Squares and Park, and their blue accomplices in the side streets.

I agreed with my vis-à-vis over the poached eggs and ale at Gibson's that it did seem queer the air wasn't free, and that sleeping in public was a misdemeanour. Of course one does it when pressed, but while the Island gives

the needed respite, it lessens the chances of earning money to buy a sleeping privilege—and many trips over the river are apt to permanently impair claims to good citizenship. Sandy hadn't been obliged to cross the upper East River yet, but he was getting very weary and careless about concealing it. Hadn't he been able to get any work? Not for a long time. Didn't he do anything at all? Yes—he looked for a job about four hours a day. Why only four hours? Because he tired easily and had to save his strength for the line at night. The line? Yes—the bread line at Fleischmann's.

On the main artery of the chief city of this land of plenty—on Broadway under the shadow of Grace Church—there forms nightly a line of men that stretches for more than a block. Men with pale faces that show haggard under the white electric light, and haggard faces that show hideous,—shiveringly cold men who blink at you like dazed animals or glare at you like wild beasts;—hot, panting, almost pulseless men who gasp in the scorched atmosphere of the city's streets—solemn, mournful creatures, with their filthy rags loosened for any breath of air, no matter

how fetid—miserables of every type, exhausted, wretched, but human beings all—stand every night at the edge of the curb on Broadway and Tenth Streets waiting for a baker's over-baking.

It all flashed before my eyes in a moment.

You can see it any night, winter or summer—January or July—from ten o'clock till two, gentlemen. Look at it and pity it—you who have pity in your hearts. Look at it and fear it—you who have none!

Had he been there to-night? Yes, but there was a fellow near the end of the line whose wife and children were waiting for him, so he and Sandy exchanged places, and—well, the supply gave out about one o'clock, so of course—— Yes, he would take another egg. Was he married? No, thank God!

There was nothing romantic about Sandy McWhiffle, and nothing Scotch about him except his name. Neither was his face in any way remarkable, nor his speech, nor his story; but it struck me then that there were dramatic possibilities in him as a man—dramatic probabilities in him as a type.

II.

I WAS in a hurry to have the position filled; it wasn't much of a job, and I wanted to waste as little time as possible, so I advertised and gave my office address. Of course it was foolish, but I was pressed with work and did it without thought. However, I saw no reason why the janitor should lose his temper. Anyway, I can't abide impertinence in an inferior, and I let him understand this before the elevator reached the top floor. Once there I admitted to myself he had reason for—well, for respectful annoyance. A pathway was forced for me through the crowd of men which choked the hallway and blocked the entrance to my office, but I couldn't get in until a score or so were driven down the stairs. I locked myself in my private room and cursed my folly and the janitor's impudence. But there was no time to lose—we had to be rid of those men—so I slipped a note under the door directing my clerk to send them in to me, one at a time, until further orders.

It didn't take long to find the man I wanted. He was the third in line, I think—a respectable fellow—far above the position, I should

have said, but he told me he wasn't, that he had a family to support, and all that sort of thing, so I engaged him and sent him out with a note to the superintendent. As he left the room I hastily tore open a letter which looked as though it needed an immediate answer. At the same moment my door opened again.

"Confound that ass Junkin, why the devil didn't he give me time to ring the bell and tell him I'd engaged a man!—Why the devil doesn't he——"

It was just as I expected. That letter was important to a degree, and during the next ten minutes I was so deeply absorbed that when I looked up from my reading and saw a man standing beside me, I started with a nervous exclamation which turned to a surprised greeting as I recognised Sandy McWhiffle. He had changed somewhat since I'd seen him last—six months before—and not for the better. His gaunt face was even more sallow than before, giving to the features a harder caste, chiselling the nose into more of a hook, and deepening the lines under the eyes. He looked ravenous, but not with the hunger of appetite, and I thought—yes, I was quite sure—he smelt rather strongly of liquor.

"Well, Sandy," I began, "where did you come from?"

"From the hospital," he answered.

"Ah," I observed, "bad places—those—er—hospitals, Sandy. They breed a great deal of sickness. There are seventy-two in my district."

"You think I've been in a saloon, drinking?"

"No, I don't think so," I answered, with a mental reservation favouring knowledge.

"Well, I haven't been, anyway. You smell whisky on me. They gave it to me at the hospital so's I could get down here. I ain't discharged yet, but I was bound to come when I saw your name in the papers and knew I'd get the job if I could only see you. I've been here since six this morning. Will you give me a try at it?"

"Well, no, I can't, McWhiffle," I said, with a good deal more ease than I could have felt if I hadn't smelt the liquor and heard that hospital story. "The fact is, I've taken a man on, and so the job's gone."

Sandy gazed at me with a bewildered, frightened look, but his answer was only a mumble about his being sure of a steady job this time, seeing how he knew me and all.

Mechanically I made a memorandum of the hospital at which he was allegedly a patient, but my mail was awaiting me, and he must have gone while I was intent upon its contents. Anyway, he'd disappeared when I looked up, but the odour of whisky in the room was strong enough to destroy any interest I might have felt in my late supper companion.

Whisky and "that tired feeling" are mainly responsible for the army of the "unemployed." They talk about there not being enough work to go around! One good job 'd last the whole shiftless lot a year. They don't want work, they want help—permanent and increasing help.

Some such thoughts occupied me until I happened to see a telegram protruding from the bundle of unopened letters on my desk.

"Gods and powers! Will that triple idiot never learn to separate the telegrams from the letters? What the devil—Junkin! Junkin!" I crashed the bell with each repetition of the fool's name, at the same time tearing open the yellow envelope.

"For God's sake, Junkin, how many times must you be told to keep these things separate? Half an hour gone, and here's this cipher still

untranslated. Do you think you've nothing to do but draw your salary——"

"I'm sorry, Sir, but you see these men came——"

"Quick, get the code and translate—don't stand around arguing! Here, give me the book!"

I rushed into the outer office, but stopped almost at the threshold of my door. The room was completely encircled by a line of men, and every eye in the crowd was turned upon me. What a motley throng it was—shabbily dressed and unshaven for the most part—untidy to the point of dirtiness. Hardly a bright, healthy face among the lot—surly and ill-tempered looking many of them. Bah! I don't like humanity in the abstract, and loathe it in the concrete of crowds. My disgust must have been apparent, and my thought audible as I said:

"Now, my men, the place is filled. You'd better all clear out."

But my words, forbidding as they were, did not free me.

"No, I haven't any other job. No, I don't expect to have any. . . . Yes, well, I can't help it, can I? . . . Of course, I know—don't

bother me! I tell you the place is gone. . . . No, we never have any places in this office. . . . Charity Organisation, Twenty-third Street and Fourth Avenue. . . . Yes, yes, yes, I don't doubt it, but I tell you I've filled the job—Junkin—get the janitor and clear the room—they'll drive me mad!"

Almost frenzied, I rushed back to my private office.

How I was worked that day! The Section Traction Company almost caught us napping, and they'd have done it surely if we hadn't obtained the Judge's signature to the injunction by four o'clock that afternoon. They not only laid two miles of track inside of eighteen hours, and came within four blocks of crossing our main line, but they sold our stock on the market, thousands and thousands of shares—poured it in from ten o'clock till three, pounding and hammering every supporting bid we made, and the only thing that saved us was the Exchange closing at three o'clock. As it was, our Board man, Reynolds, became hysterical as the gong struck, and he's never been up to much since.

Well, it was a shrewd, ably-planned move, and, executed earlier, would have succeeded in

wrecking us. But it cost them, as we figured it, two millions, and sent them higher than a kite. I didn't know they were so big—employed three thousand men, they say.

III.

THE name on a passing ambulance directed my steps to Roosevelt Hospital at the close of business, a few nights later. I don't think I wanted to nail that very poor lie of Sandy's but I knew Waldron, the Superintendent, and thought I'd invite him to dinner and joke him a bit about his new whisky ward.

Waldron was in, but could not go to dinner. Worst time in the day for him to get off, he said.

"By the way," he continued, "too bad you couldn't give Sandy McWhiffle a job—he would have it you'd take him, so we let him go, with a dose of whisky to carry him through. But you lazy devils get down so late it didn't last him, and he fainted in the street on the way back. Queer fellow, but I liked him—his sense of humour hasn't disappeared as it has with most of his class."

Perhaps my sense of humour had disap-

peared, but I saw no fun in my rehearsed jokes of a few minutes previous.

"Is he here now?" I asked.

"No, we discharged him yesterday.—Hope he'll get a job, but there's an awful lot of men looking for work."

It was probably because I was out of temper with myself, but the city seemed hideously cruel to me as I walked down Broadway from the Hospital. The clang of the car gongs sounded like fierce commands—the electric lights snapped and glittered like cunning, wicked eyes—the hot air from the shops offended like venomous breath—the rattle of the carts and cabs sounded reckless—the crowds seemed to jostle and grapple. The gaily-lighted windows mocked me with their glitter, and the darkened ones had a menace in their black indifference. In every elbow touching me I seemed to feel some threat—in every eye looking at me I seemed to read some impatient question asked in brutal scorn. These masses of men rushing by me this way and that—they hated me—longed to trample me down and crush me into the dirt beneath their feet!—No, they didn't.—And wouldn't?—Unless they found me in their

path, and then they'd wipe me from it with scarce a thought—yes, and rush on without a sign, without knowledge of my obliteration. —Well, it wasn't worth struggling against—the odds were too great.—And anyway, what difference did it make?

I felt a touch on my shoulder, and almost screamed. It was St. Clair Mowbray. I don't like him much, but any companion was a friend just then, so we walked along together, he chatting and I silent.

As we passed the Metropolitan Opera House a line of people stretched from the box-office out into the street.

"What fools," said Mowbray, "they must want tickets damned badly to do that. Don't they look like a chain gang?"

"More like the bread line at Fleischmann's," I answered gloomily.

"Yes—but better bred."

Mowbray chuckled approvingly at his sally.

I parted with him at the next corner feeling his wit would not appeal to me that evening.

IV.

THE Club disappointed me. I thought companionship would relieve, but it only served to aggravate my loneliness. Everything talked about seemed local and trivial, and everybody appeared to sail under a different flag of interest. So after enduring this as long as possible I wandered out, walking down town for no other reason than to be among people I didn't know and who didn't know me—a hair-of-the-dog-that-bit-you cure for loneliness.

A conservative investor once told me there was no better or safer property than a cheap lodging-house on the Bowery. Possibly my informant imparted his discovery to others, for the number of these establishments has increased tremendously during the last few years. But when many Conservative Investors undertake to walk the same road, the result is usually the elimination of some of them—only those, of course, who are not really entitled to be termed conservative. This sorting of the just from the unjust does not occur, however, until the Malthusian Doctrine needs a business illustration. As I

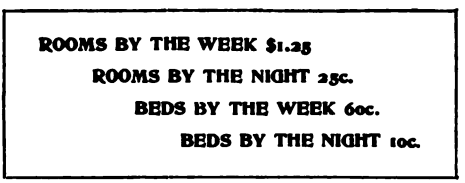
walked along the east-side thoroughfare and noted the lodging-houses packed to their utmost capacity, I concluded that the number of applicants for such accommodation must have increased in a manner at once flattering to the judgment of the Conservative Investor, and satisfactory to his highest interest.

Who inhabit these houses? Well, men who have no better homes—drunken, idle and shiftless men—strangers in this somewhat inhospitable town—men looking for work and men looking for mischief—great, hulking, ignorant brutes whose hope lies in their muscle, and well-formed fellows with intelligent faces—all sorts and conditions of men—a great tide of humanity that flows in at night and ebbs out in the morning, never and yet ever the same. A steadily rising tide? O, yes, perhaps,—but look at the embankments!

It was curiosity and not a desire to educate myself for the day when I might become a Conservative Investor that led me to enter No. 99½ Bowery.

Its sign offered attractions suited to almost any purse, the management apparently catering to every taste in the scale of social refinement.

It read



There were several similar houses in the immediate vicinity, but this one seemed to secure most of the stragglers who came by during the ten or fifteen minutes I watched it from the opposite side of the street. The reasons for its popularity were not to be spelled out of the sign, so I crossed over and climbed the ladder-like stairs upon which the street door opened.

I knew just about what was inside before I mounted a step. Everybody knows who's travelled on the Third Avenue L at night and looked out of the windows of the train anywhere below Ninth Street.

It was one o'clock in the morning when I left the Club, so it must have been quite two when I entered the "Columbian," but even at that hour the smoking-room was more than comfortably filled.

A cloud of malodorous smoke so lowered

the ceiling that one involuntarily stooped to avoid contact with it. Occasionally some current of air would draw a funnel-shaped drift from this cloud and whirl it like an inverted sea-spout toward the steam-screened windows and out of the cracks at their top, and occasionally the draught in the red-hot stove sucked down a whiff of it. Otherwise it hung motionless like some heavy, breathless canopy.

A long, narrow table filled the centre of the room, reaching almost from the windows in the front to the stove in the rear. Around this sat or lounged a score of men, and perhaps as many more occupied chairs about the stove and along the wall. Half a dozen were reading newspapers, tattered and greasy through constant handling, but the rest of the company stared idly at each other, or at nothing, talking little, but smoking almost to a man.

An artist could have found a study for almost every emotion in the figures and faces of that dimly-lighted room. Excitement in the expression of the fair-haired lad following with his finger the closely-printed "ads.," and quickly noting the promising ones on a scrap of paper by his side.—Anxiety on

the face of the handsome fellow with the pointed beard, turning the pages of the long-coveted newspaper to find his particular "want column."—Indifference in the attitude of the strong but unhealthy looking man with hands in pockets, his outstretched legs forming a V, as he lolled back in his chair, pipe in mouth, his eyes on vacancy.—Despair in the huddled bit of humanity at the head of the table, with head on arms—his hair showing very white against the black coat-sleeve.

I walked into the room and took a seat at the long table, near the front windows. My entrance attracted no attention, either owing to the smoke in the room or the indifference of its occupants. But I viewed the neglect with complacency, whatever the cause.

"What are they waiting for—why don't they go to bed?" I asked in a low tone of my neighbour at the table—a rough but shrewd looking fellow.

"Who's *they?*" he replied surlily—"What's yer waiting for yourself?"

"Nothing," I answered—"not sleepy, that's all."

"Well, that's what the rest's waiting for—for nothing—not sleepy nor—nor anything."

He gave a sharp glance at my face, and then, appearing to see a puzzled look on it, added, "Say, d'yer mean ter tell me yer don't know what's bitin' this crowd?"

"No," I replied, and my voice must have demonstrated my ignorance, for he exclaimed:

"Then yer must be a jay, sure. Why, they're waiting for the morning papers, of course. Do yer think yer'll ever get a job if yer wait till the noospapers gets on the stands? Well, yer will—I guess not! Where in hell did yer drift from, anyway?"

"Hist—there he comes," exclaimed a man opposite.

I glanced towards the door, and saw a man standing with his hand on the door-knob. His tall figure was so slight as to be almost emaciated, and his clean though threadbare clothing hung loosely, as if it had once fitted a far stouter frame. His face was refined, and had that look of calmness which now and again follows some great storm of mind and rack of body. The skin was drawn tightly over the cheek bones, making the eyes seem disproportionately large in their sunken sockets. His mouth and chin were strong, and the prominent, slightly hooked nose gave

the clean-shaven face a sternness which contrasted rather oddly with his abundant light-yellow hair.

He closed the door, moved to the table, and seated himself at it near the centre of the room. Almost every eye had been fixed upon him as he entered, but no greetings were given, and the interest in the newcomer flagged the moment he opened a book and began to read.

"Who is he?" I ventured to ask my neighbour.

"Schrieber," he replied, and then in a bored tone, as though remembering my greenness—"the fellow who's been talkin' at the lodgin'-houses for the last two weeks or so—at the 'Crescent,' and the 'Owl,' and the 'American,' and all of 'em."

I desisted from asking the further questions that immediately suggested themselves, for my informant turned his back on me and rested his head on the table, as though to discourage further conversation.

"Here comes Bill Nevins," announced the man opposite, but just whom he addressed could not be gathered from the faces around me. His remark, however, referred to an

individual who entered with a "Howdy!" directed to the room in general.

"Cold morning, boys!" he exclaimed, as he walked towards the stove rubbing his hands together.

No one responded, but this did not seem to affect the speaker, who stood smiling cheerfully at the crowd, with his back to the red-hot stove. A healthy, well-fed, kindly-looking man, with vigour in his limbs and character in his genial face, he looked like some good-natured priest or head-groom.

"What's the news, Bill?" called out a man with his chair tipped against the wall.

"Well, they strike to-morrow at noon, unless the companies concede something, but, as everybody knows they won't, I might just as well say—they strike to-morrow at noon."

The voice was clear and the tone cheery, though decisive. All the newspapers seemed to have been drained of their contents, for everyone was staring at the speaker—some with interest, others listlessly. But no answer or comment greeted the news.—The silence was solemn or absurd—one scarcely knew which.

" And as this strike's on," continued Nevins, " the question for us is—will we aid the men, or help to defeat 'em? If we want to beat 'em, we've just got to take the places they're givin' up. Things has got to be pretty bad when a working-man leaves his job these days —you know that—so there's no use discussin' why they strike. Of course you know the answer of these car companies, and all other companies—' supply and demand.' And I'll tell you what rules the ' supply and demand.' —It's the supply of stock and the demand for dividends. It's greed that makes this demand, and it's poverty and sickness, and many mouths to feed, that makes the supply. It's greed, and not decent competition, that milks the companies and busts them, and drags men down to lower wages, or throws them out of work altogether. What we've got to do is to demonstrate which side we're on. If we're for the men, we must stand off and persuade others to do the like; and if we're for our children, we must do the same thing. But if we don't give a damn either for our own people or anybody else, we'd better go and take the places until the companies decide on the next reduction!"

The determination in his voice would have

been fierce but for the smile accompanying the words. Half-muffled applause and ejaculations of approval could be heard from different parts of the room.

The man Schrieber looked up, his glance travelling from one face to another down the long room until it reached Bill Nevins and settled on him with an intensity that compelled an answering glance.

"You say, my friend," he began slowly, "we must demonstrate on which side we stand. So say I. We must demonstrate—but not by waiting. We must make a great spectacle—but not by idle tableaux. You think you will compel these rich corporations to give in to these men by withholding your services? It is an empty dream. There will come other men from other places—you cannot prevent them from coming or the companies from hiring them. The disease is body-spread—you cannot doctor it locally. The longer we sit idle the fiercer will the disease ravage, the deeper will it enter. Idle waiting will not do,—no, nor throwing stones. That will only make a holiday for the militia—stories for their armouries—child's play, forgotten by the children when the game is over.

It does not turn the attention of prosperous humanity towards its suffering brothers, but it gives a pretext for 'man's inhumanity to man.' It only costs a little money—a very little money—easily saved by the corporations in the decreased wages, and made up to the State by increased taxation. It will not do, I tell you. We need a much bigger and a dearer demonstration."

The speaker had risen, and was gazing into the faces of his auditors. As he paused and brushed the light hair away from his eyes, the air disturbed by the movement sent the smoke cloud blowing about his head.

"Now, that's just what we don't want, Schrieber!" broke in Nevins impatiently. "You go 'round raisin' a row and gettin' up a riot, and you'll turn all the sympathy of the press and the public against the people we're tryin' to help."

The man did not reply at once, but stood gazing at the labour leader as though struggling to keep back some retort.

"You do not understand me," he said at length—"I counsel no violence—I do not advocate riot. But not because I fear to lose the sympathy of the press and the public. You

have had that, and with what result? Aren't wages lower than ever, and isn't work more difficult to get every day we live? And who is your 'public'? The few well-to-do who never think unless their comfort's disturbed? I tell you the real public is the many poor, the constantly increasing poor, and not the few rich! Your demonstration must teach the rich to think—it must redeem the poor from themselves!"

His glance turned from the faces before him, and seemed to centre beyond and above them. The listening men drew closer to the speaker. The room was so still I could hear the empty cable rattling in the street below.

"It is an awful disease—a disease of the blood—to be cured by blood—the only price the rich cannot afford to pay—blood, the redemption of the world throughout all generations—the blood of the Lamb."

He spoke the words dreamily, as though to himself. Then, with gathering energy and rapidity—

"Wait as you have waited, and you will see the disease spread—the public you are trying to reach grow blind to your affliction, deaf to your cries. Riot, and you will only lend

virtue to oppression and injustice. The hour is at hand for a great sacrifice—the time is ripe for redemption. The public you would propitiate fears death—loathes blood. For these alone will it stop and think—all else touches only what money can cure. But death arrests—blood you cannot buy. Make them take what they cannot return—make them shed blood they cannot wash out. No, not with their tears!"

He paused again and gazed into the faces half hid by the smoky atmosphere. Mystic, dreamer, lunatic—what you will,—he held the men in weird fascination. They crouched, rather than sat before him. Had he spoken in whispers, not a word would have been lost. His eyes shone with a new light, and his voice softened as he continued:

"We are on the verge of another battle in the great conflict over the right to live. Battles without number have been fought in this conflict—blood without stint has been poured upon its fields.—With what result? Here, in this land of plenty, the hosts are gathering for a contest of such magnitude that, compared to it, all former conflicts will seem mere skirmishes. Why? Because the sword never

has touched, and never can touch, the soul of man—because blood not shed in consecration cannot heal. The eyes of the world must look upon a blameless death-devotion to a cause. If I am mad, it is a madness learned of Christ. Are your lives so valuable that you fear to lose them? Is death a terror to you who die daily? Humanity bleeds from every pore—do you shudder at blood? Civilisation calls upon you, her outcasts, for salvation. Will you answer her—you who, here in the City of New York, see the rich digging a gulf between themselves and the poor—a gulf that may be a grave for countless thousands—a trench for oceans of blood that a few drops shed now may save? We must demonstrate which side we are on—we must make a great spectacle! I want volunteers for death—volunteers for the death that redeems!"

With hands spread out in appeal—the fine head thrown back—he stood like the shade of some great Being encircled by the mists of unreality.

From out of the smoke there staggered and stumbled toward him a man who grasped the outstretched hand—

"I volunteer!" he cried.

Schrieber's calm face bespoke a benediction.

"My brother," he answered, simply.

The recruit was Sandy McWhiffle.

I started to my feet with a cry of protest on my lips, but the great smoke bank above seemed suddenly to descend and envelop me, choking and stifling me. For a moment I fought it, gasping for breath, but only drawing the foul air deeper down into my lungs. Then I remembered nothing more. They said at the hospital it was nicotine poisoning.

V.

For some days—just how many I don't remember—I had been in the condition which often follows sudden illness, when the mind is groping about to connect things one with another, and to adjust relative values. But I was not delirious. I want to state that distinctly, because when, like a fool, I told the stripling hospital doctor what I am now about to relate, he smiled in sickly imitation of the veteran practitioner, and soothingly patted my counterpane. It makes me wild, even now, to recall that superior youth pretending to humour me—a grown man with a clear head

and more experience than will be his in many a long year. The nurses are all right—God bless them, I say—but, good Lord, what do the sick in the hospitals not suffer from the tactless wisdom of the embryo physicians!

However, that's neither here nor there, so I simply repeat I never was delirious, and when I say I saw these things, I know what I am talking about.

I lay perfectly still because I was tired. I don't remember ever to have been so tired before or since.—Occasionally I dozed, but for the most part I gazed steadily, hour after hour, at the brass setting of the push-bell in the wall, too weary even to avert my gaze. I knew the room was a ward of some hospital, but I was too indifferent to ask which one. I could see the nurses passing back and forth. I felt one of them resettle my pillow, which allowed me to observe a screen placed around the adjoining bed. I knew what that meant. It was not cheerful, so I turned again to the brass disk and watched it in sunlight, shadow, twilight and darkness.

I was conscious too of all the different sounds about me—the stopping and starting of the elevator—the sliding and locking of its iron

door—the rolling of the rubber-tire trucks about the halls—the creaking of a bed—the tinkle of a glass—the rattle and clatter of vehicles and horses in the street—even the peculiar rumble, rumble, rumble of the cart that passed the hospital and which I took to following through street after street, twisting and turning with it past towering tenements and squatting rookeries, plodding along under the broken roofs of the hissing elevated roads and over the singing trenches of the cables—through wide avenues and narrow alleys, until I found myself fairly launched into the sea of faces which spread out before me.

What a crowd that was! It is impossible to imagine such a scene. All the descriptions they've written fail to picture it, for the flaring lights with their play of shadows changed it every instant, darkening one group, illuminating another, running up and down lines of faces, flashing some individual into prominence for an instant, blotting him into the surging mass the next. And then the hum and mutter, rising to a babel of voices,—swelling into a shout, bursting with the shock of a world-tongued roar ending in a single piercing shriek, and the hush—the

awful hush as Schrieber spoke his wondrous words—they're all part of this tableau utterly beyond the power of pen or brush.

I stood there pinioned and upheld by the press about me which silently surged and swung with the motion of some sluggish sea. I felt the human steam hot upon my face—I breathed the fearful reek of that matted throng, but not for my life would I have missed one word of that which hushed those thousands. Pale and impassive I could see Sandy as he stood beside Schrieber on the tail-board of the cart. Once I thought he recognised me, but wedged in I could not signal, and the words I drank in held me speechless. What words!—If I could only remember them! But I cannot—and all the papers lie.

I heard them above the roar of the maddened crowd as it parted behind me, crushing some and trampling others under foot in its wild stampede. I saw the rush of uniformed men clearing the triangle back of Cooper Union and was hurled with the throng to Third Avenue. Then I heard Schrieber calling on us to form a procession and march to the Mayor's house with our petition—heard him tell the Chief of Police that all should be orderly—

heard the official warn the people not to cross Third Avenue at the peril of their lives.—I saw the dead-line formed and felt the onward surge of the crowd as it swept the thin sentry-line away and moved toward Broadway. I saw the glitter of levelled rifles as we neared the Cox statue, felt the mass hesitate and recoil. Then from out the ranks I saw Schrieber and Sandy emerge and start to cross the open space alone. I caught the sharp summons to halt, and even as I leaped toward them heard the crash of the volley before which they staggered and fell.

"Sandy!" I shrieked. . . .

. . . "Sandy. Yes—that's the name.—Who said that?—Sandy McWhiffle and the fellow Schrieber—they're under arrest, you know, Mr. Superintendent,—and the Inspector orders me to take their statements,—me and my side partner here."

A strange voice was speaking quite near me.

"Well, you can't do it, Officer. Neither patient can be seen to-night."

Was that Waldron's voice?

"Can't do it? What's that mean? Me tell the Old Man that? Step one side please! —I guess you don't know who I'm from!"

"Then you guess wrong, my man. They're your prisoners, but they're my patients, and, by God Almighty, so long as they are, it makes no difference whom you come from!"

I raised myself on my elbow and gazed at the speaker. Yes, there was Waldron. A nurse stepped up to him and whispered in his ear. He turned quickly on his heel.

"Officer, tell the Inspector you came too late," he said.

I must have called out, for I remember the orderly hushed me, whispering that it was "nothing but a couple of rioting strikers, who'd just died of their wounds—which ought to stop such folly and teach the other fools a lesson."

But I made no answer, recollecting something about "wise folly" and "foolish wisdom." Then too I was wondering, quite as calmly as I am now, just how high and strong those embankments are which a restless, rising tide is ever lapping—lapping.

THE END.

THE NEW YORK PUBLIC LIBRARY
REFERENCE DEPARTMENT

This book is under no circumstances to be taken from the Building